

Joseph Plimsoth Edwards.

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THE 246
PERPETUAL ACTS

OF THE
GENERAL ASSEMBLIES

OF
HIS MAJESTY'S PROVINCE OF

NOVA SCOTIA.



HALIFAX, in NOVA SCOTIA :
Printed by ROBERT FLETCHER.

M.DCC.LXVII.

HALIFAX; the 13th Day of *May*, 1767.

THIS Edition of the Laws of the Province, as prepared and collated with the Records by *John Duport* Esq; with the Revival and Marginal References to Acts of Parliament and Authorities in Law, by Mr. Chief Justice BELCHER, was begun by Order of the *General Assembly*, on the Special Recommendation of the Honorable Lieutenant Governor FRANKLIN, and continued and perfected with the Approbation, and by Order of His Excellency the Governor, the Right Honorable Lord WILLIAM CAMPBELL.

RICHARD BULKELEY,

Secretary of the Province.

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1767

TO HIS EXCELLENCY

THE RIGHT HONORABLE

LORD WILLIAM CAMPBELL,
*Captain General and Governor in Chief in
and over His Majesty's Province of NOVA
SCOTIA, and the Territories thereon depen-
ding,*

THIS EDITION of the LAWS of the Province of
NOVA SCOTIA, perfected by your Lordship's Patro-
nage, is most humbly inscribed, with all due Re-
spect, by

Your Lordship's

Most Devoted, and

Most obedient Servant,

JONATHAN BELCHER.

TO HIS EXCELLENCY
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Manlaughter, pa. 29. *f.* 4.

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f. 1. *et seq.* pa. 135. *f.* 1, *et seq.*

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PA. 27. In the running Title for 758, read 1758. Same Page in l. 14. for *Mafesty's* read *Majesty's*. Pa 28. l. 24. for *ano* read *and*. Pa. 33. in Marginal Note to Sect. 21. for *Brit. Stat. 9. Geo. 1. c.* read *Brit. Stat. 9. Geo. 1. c. 22. Sect. 1.* Pa. 38. in the Note at the Bottom for 33. *Geo. 2. c. 12.* read 33. *Geo. 2. c. 14.* Pa. 41. In the running Title for *Cap. XVII.* read *Cap. XV.* Pa. 61. in the Marginal Note to Sect. 3. for 2. *Salk 40. Eng. Stat. 24. & 5 Ann.* read 2. *Salk 420. Eng. Stat. 4. & 5. Ann.* Pa. 81. l. 11. for *do* read *do*. Pa. 82. insert in the Margin against the Title, 32. *Geo. 2. c. 5.* Pa. 87. insert in the Margin against the Title, 33. *Geo. 2. c. 5.* Pa. 92. insert in the Margin against the Title, 32. *Geo. 2. c. 14.* Pa. 94. in the Title of the Act, for *Habourers* read *Harbourers*. Pa. 97. insert in the Margin against the Title, 32. *Geo. 2. c. 11.* Pa. 104. l. 10. for *Confessin* read *Confession*. Same Page insert in the Margin against the Title of Cap. 10. 33. *Geo. 2. c. 10.* Pa. 109. in the Marginal Note to Sect. 6. for *Fines ob to the Use of the Poor,* read *Fines to be to the Use of the Poor.* Pa. 145. in the Marginal Note to Cap. 2. for *Councili* read *Council*. Pa. 202. in the Margin dele & 3. *Geo. 2. c. 42. Sect. 3.*

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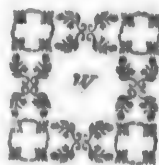
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the GENERAL ASSEMBLY of the Province of Nova Scotia, begun and holden at *Halifax*, on the *Second Day of October*, Anno Domini 1758, and in the *Thirty Second Year* of the Reign of Our Sovereign Lord GEORGE the Second, of Great Britain, France, and Ireland, KING, Defender of the Faith, &c. being the First GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT for confirming the Proceedings on the several Resolutions or Acts of the Governors and Council of this Province, relating to the Duties of Impost on Rum and other distilled Liquors, and enabling the late Collector or Receiver to recover the Monies unpaid for any Bonds or Notes remaining in his Hands; and for establishing and regulating several Duties of Impost on Wines, Beer, Rum, and other distilled Spirituous Liquors for the future.



HERE AS it has been thought necessary by His Majesty's Governors and Council of this Province, before the calling a General Assembly, to lay a Duty of Three Pence a Gallon upon all Rum and other distilled Spirituous Liquors imported into this Province, excepting the Product and Manufacture of Great Britain, or of His Majesty's West India Plantations, imported directly from thence; which Impost Duty enabled them to grant Bounties and Premiums from time to time, for clearing and fencing of Lands, catching and curing Codfish, and other necessary Encouragements to Labour and Industry: And

Preamble.

Whereas

Whereas it is thought expedient, for the further Encouragement of Labour and Industry within this Province, to grant Bounties and Premiums on the Clearing and Fencing of Lands, raising Hemp, Flax, Grain, Roots, &c. and catching and curing Codfish: And as large Sums of Money will necessarily be wanting for Payment of the above mentioned Bounties and Premiums; We do hereby Grant unto His Most Excellent Majesty, His Heirs and Successors, for the Uses aforesaid, the several Rates, Duties and Imposts herein after mentioned; Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted and Declared, That all the Proceedings heretofore by Virtue of said Resolutions or Acts, or any Part thereof, shall be and are hereby ratified and confirmed.

Former Proceedings confirmed.

Monies due on Bonds unsatisfied, to be recovered in any Court of Record.

II. And be it Enacted by the Authority aforesaid, That the respective Bonds perfected by Virtue of the said Acts or Resolutions, shall be and are hereby declared to be good and valid, and the Monies due thereon shall be recoverable in any of His Majesty's Courts of Record, pursuant to the Tenor of the said Bonds.

As these Clauses of Confirmation must, in their Nature, have a perpetual Effect, they are therefore herein inserted: The Remainder of the Act was Temporary.

C A P. II.

An Act for confirming Titles to Lands and Quietting Possessions.

Persons claiming Titles to Lands, &c. by Virtue of Grants, Deeds, or last Wills, to hold the same according to the Tenor thereof.

Possessions by Virtue of such Grants, &c. confirmed, notwithstanding any Want of legal Form therein

No Papist to hold any Lands, &c. other than by Grants from the Crown.

*** E it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That all Persons claiming or deriving any Right or Title to any Lands or Tenements, by Virtue of any Grants or Deeds entered in the Public Registry of this Province, or by Virtue of any Last Will or Testament, shall have, hold, and enjoy such Lands and Tenements, according to the Tenor and Effect of such Grants or Deeds registred, and of such Last Will and Testament, whether the Estate be in his or their own Right, or in Right of, or in Trust for another; and that all Possessions by Virtue thereof shall be, and are hereby confirmed, any want of legal Form in such Grants, Deeds, or Wills, notwithstanding.

II. Provided, That no Papist hereafter shall have any Right or Title to hold, possess, or enjoy, any Lands or Tenements, other than by Virtue of any Grant or Grants from the Crown, but that all Deeds or Wills, hereafter made, conveying Lands or Tenements to any Papist, or in Trust for any Papist, shall be utterly null and void: And such Lands or Tenements shall not revert to the Persons granting the same to any Papist, or in Trust for any Papist, but such Lands or Tenements shall, upon Conviction of such Papist, be vested in His Majesty, His Heirs and Successors for ever.

III. And

III. *And it is hereby Enacted*, That before the Registry of any Grant or Deed of any Lands or Tenements, other than by Virtue of any Grant or Grants from the Crown, the Person or Persons to whom, or for whose Use such Grant or Deeds are made, shall take the Oaths appointed to be taken instead of the Oaths of Supremacy and Allegiance, and make and subscribe the Declaration, before the Register of the Province or his Deputy, who are hereby impowered to administer the same: And if any Person shall refuse to take the said Oaths, and subscribe the said Declaration, the Grants or Deeds made to such Persons shall be null and void to all Intents and Purposes whatsoever.

Persons to whom Grants or Deeds of Lands, &c. are made, to take the Oaths before such Grants, &c. are registered.

IV. *And it is hereby further Enacted*, That all Deeds of Sale of any Lands or Tenements, made by the Provost Marshal under Writs of Execution to him issued, for the Satisfaction of any Judgments, shall be and are hereby confirmed.

Provost Marshal's Deeds under Writs of Execution confirmed.

V. *Provided nevertheless*, That it shall and may be lawful for any Person or Persons, whose Lands have been taken in Execution, and sold as aforesaid, his, her or their Heirs, within Twelve Months from the Second Day of October, 1758, to sue for and recover, by Action in Nature of an Action of Account, from the Person or Persons to whom the Persons intitled to such Lands or Tenements were indebted, and for Satisfaction of whose Debts the said Lands or Tenements have been sold as aforesaid, upon Payment in Manner herein after directed, of the Principal Money due, with Interest for the same, at the Rate of Six Pounds in the Hundred for each Year, and all Costs and Damages awarded or sustained by the said Judgments, and also for all Improvements of the said Lands or Tenements, and the Provost Marshal's Proceedings thereon, with like Interest for the Principal Money expended in such Improvements, upon a just Account to be taken of the same on any Trial for the Recovery of said Lands or Tenements, wherein a View, if required, shall be directed: And if upon such Trial it shall appear in Evidence, that such Person or Persons to whom the Lands have been sold or conveyed as aforesaid, have committed wilful Waste thereon, or have received Rents or Profits from the said Lands or Tenements, the said Rents and Profits, and the Value of such Waste, shall be allowed in Account to the Person so suing for the Recovery of the said Lands or Tenements, and upon Payment of said Principal Money and Interest, and of all Damages and Costs for and on Account of such Debts and Improvements, or upon taking such Account of Rents and Profits, or the Value of such Waste, and Payment of the Balance due thereon, before any Writ of Execution shall issue upon any Judgment upon such Trial, to the Clerk of the Court where such Trial shall be had; that then and in such Case it shall and may be lawful to award such Writ of Execution for delivering Possession of such Lands or Tenements, to the Persons so suing for the same: *Provided*, That if upon such Trial it shall appear that the Rents and Profits received, or the Value of such Waste committed, or both of them, do exceed the Value

Lands sold under Writs of Execution may be redeemed within Twelve Months from the 2d October, 1758.

Purchasers of such Lands to be accountable for wilful Waste, Rents or Profits.

Value of the Debt, Interest, Costs, and Damages, and the Value of the Improvements, that Execution shall issue for recovering the said Sum so received in Rents and Profits, or the Value of such Waste committed, beyond the Value of such Debt, Interest, Costs, and Damages, together with the Possession of the *Lands and Tenements* so taken in Execution as aforesaid.

Debtors may recover their Lands on Payment, within Twelve Months from 2d Oct. 1758, of the Consideration Money paid by the last Purchaser, with all Charges.

VI. *Provided nevertheless*, That any Debtor or Debtors, or his or her Heirs, upon Payment or Tender of Payment, within Twelve Months after said Second Day of *October*, 1758, of the Consideration Money really and *bonâ fide* paid by the last Purchaser or Purchasers under the Provost Marshal's Deeds, of any *Lands* or *Houses*, with all Charges for necessary Repairs or Alterations, shall and may be intitled to recover such *Lands* and *Houses*, so taken in Execution and sold by the Provost Marshal as aforesaid.

Debtors may prosecute an Action of Account against their Creditors.

VII. *Provided also*, That it shall and may be lawful nevertheless, to and for any Debtor or Debtors, or his or her Heirs, to have and prosecute an Action of Account, against his or her Creditor or Creditors *notwithstanding*.

Deeds, &c. made by Purchasers under Provost Marshal's Deeds, within one Year from 2d Oct. 1758, for a larger Sum, to be void.

VIII. *Provided also*, That all subsequent Deeds and Conveyances, made and executed by any subsequent Purchaser or Purchasers under the Provost Marshal's Deeds, since the said Second Day of *October*, 1758, within the Space of one Year only, for any greater Sum than is expressed in such Purchaser or Purchasers Deed of Assignment, shall and are hereby declared to be null and void to all Intents and Purposes whatsoever.

No Lands to be sold hereafter by the Provost Marshal on Execution.

IX. *Provided also*, That no Sale shall hereafter be made of any *Lands* or *Tenements*, by the Provost Marshal, by Virtue of any Writ of Execution †.

Not to bar the Title of any Feme Covert, &c.
Vide Note at the End of this Act.

X. *Provided also*, That neither this Act, nor any Thing herein contained, shall extend, or be construed to extend, to bar the Title of any *Feme Covert*, or Person *Non Compos Mentis*, imprisoned, or in Captivity; who shall be intitled to sue for and recover any such *Lands* or *Tenements* to which they are intitled, within one Year after such Impediment shall be removed.

Resolution of the Governor and Council for Registry of Lands and all former Registry of Lands confirmed.

XI. *And be it further Enabled by the Authority aforesaid*, That a Resolution or Act of the Governor and Council, dated the Third of *February*, 1752, concerning the Registry of Lands in this Province, and that all Registers and all Proceedings thereon shall be, and the same are hereby ratified and confirmed.

Deeds to be registered at full length.

XII. *Provided*, That the Register of Deeds and Conveyances in this Province shall, for the future, in lieu of any Memorial, Register all Deeds and Conveyances in Words at full Length; for which he shall demand and receive such Fees for registering as in like

† *Vide* The Effect of Executions, 31. G. II. c. 15. § 3. G. III. c. 8. s. 5th.

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like Manner hath heretofore been allowed: And that upon Proof of one credible subscribing Witness, to the due Execution of such Deed or Conveyance, the same shall accordingly be registred, without any other Ceremony, or Form heretofore used; any former Use or Custom to the contrary in any wise notwithstanding.

XIII. *And be it further Enacted by the Authority aforesaid, That if any Original Deed shall be lost, and Proof thereof in Court being made, that then the Registry or Record of such Deed or Deeds shall be allowed to be good Evidence in any Court of Law or Equity, within this Province.*

If Deeds are lost, the Copy from the Registry shall be allowed as Evidence.

Vide Additions to this Act, 34 G. II. c. iv. & v. G. III. c. viii.

The Saving in this Act, Sect. 10. is, by 1 GEO. III. c. iii. extended to Absentees, and to Five Years instead of One, after Impediments removed.

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The Resolution or Act referred to and confirmed in the foregoing Act, is as follows.

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I N Council the 3^d February, 1752, Resolved, That a Memorial of all Deeds, Conveyances, and Mortgages, which from and after the First Day of March next ensuing, shall be made and executed, of, or concerning, or whereby any Honours, Manors, Lands, Tenements, or Hereditaments, in the Province of Nova-Scotia, may be any ways affected in Law or Equity, shall be registred in such Manner as is herein after directed, and that every such Deed and Conveyance that shall, at any Time, after the said First Day of March, in the Year of our Lord One Thousand Seven Hundred and Fifty two, be made and executed, shall be adjudged fraudulent and void, against any subsequent Purchaser for valuable Consideration, unless such Memorial thereof shall have been registred as by this Act is directed, before the registering the Memorial of the Deed or Conveyance, under which such subsequent Purchaser or Mortgagee shall claim.

After 1st March, 1752, a Memorial of all Deeds, &c. affecting Lands, to be registred, as herein after directed,

or such Deeds, &c. shall be adjudged fraudulent.

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II. That a Memorial of all Deeds, Conveyances and Mortgages, which shall have, before the First Day of March aforesaid, in the Year of our Lord One Thousand Seven Hundred and Fifty two, been at any Time, made and executed, of, or concerning, or whereby any Honours, Manors, Lands, Tenements, or Hereditaments, within the Province of Nova-Scotia, may be any ways affected in Law or Equity, shall be registred in such Manner as is herein after directed, and all such Deeds, Conveyances, and Mortgages, which shall be omitted to be so registred, shall be null and void against any subsequent Purchaser for valuable Consideration.

A Memorial of Deeds, &c. made before the 1st March 1752, shall be registred as herein after directed,

or such Deeds, &c. shall be null and void.

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III. That all such Deeds, Conveyances and Mortgages, which shall have been made and executed before the said First Day of March, in the Year of our Lord One Thousand Seven hundred and Fifty two, (and which have not been already registred in the Publick Registry of the Province) of, concerning, or which do any ways affect any Honours, Manors, Lands, Tenements, or Hereditaments within the County

Deeds, &c. of Lands, &c. in the County of Halifax, made before the 1st March, 1752, (and not registred before) to be registred as herein after directed,

on or before the
30th April, 1752.

in any other Part of
the Province,

on or before the
30th Sept. 1752.

A further reason-
able Time to be
allowed by the
Governor and
Council to Persons
out of the Province.

Memorials of
Deeds, &c. to be
registred in the
Office of the Pub-
lic Register at
Halifax.

Memorials to be
registred, to be put
in Writing under
the Hand and Seal
of the Grantor, &c.

Certificate to be
indorsed by the Re-
gister on all Memo-
rials, and signed by
him.

Proviso in case of
Death of the Wit-
nesses.

County of *Halifax*, within the said Province, shall be registred in Manner as is herein after mentioned, on or before the *Thirtieth Day of April next*: And that all such *Deeds, Conveyances and Mortgages*, of, concerning, or which do any ways affect, any *Houses, Manors, Lands, Tenements, or Hereditaments*, within any other Part of the said Province of *Nova-Scotia*, shall be registred in Manner as herein after expressed, on or before the *Thirtieth Day of September, next ensuing*.

IV. *Provided always*, That in case any Person or Persons, possessed of any such *Deed, Conveyance, or Mortgage*, made and executed before the aforesaid *First Day of March next*, shall not be within the said Province, before the Expiration of the respective Terms before mentioned, such further reasonable Time shall be allowed for the Registering thereof, as the Governor and Council of the said Province shall think fit.

V. *That* the Memorials of the *Deeds, Conveyances, and Mortgages*, before mentioned, shall be registred in the Office of the *Public Register* of the Province at *Halifax*.

VI. *That* all Memorials so to be entered and registred, shall be put into Writing, and brought to the said Office, under the Hand and Seal of some or *One* of the *Grantors* or some or *One* of the *Grantees*, his or their *Heirs, Executors or Administrators, Guardians, or Trustees*, attested by *Two* Witnesses, *One* whereof to be *One* of the Witnesses to the Execution of such *Deed, Conveyance, or Mortgage*, which Witness shall, upon Oath, before the Register for the said Province for the Time being, or his Deputy, prove the Signing and Sealing of such Memorial, and the Execution of the *Deed, Conveyance, or Mortgage*, mentioned in such Memorials, (which Oath the said Register for the Time being, or his Deputy, are hereby impowered to administer) and the said Register, or his Deputy, shall indorse a Certificate thereof, on every such Memorial, and sign the same.

VII. *Provided nevertheless*. That if it shall so happen that both or all the Witnesses to any *Deed, Conveyance or Mortgage*, by this Act required to be registred, shall be dead or gone out of the Province, before the Expiration of the Time hereby directed for the Registering such Deeds, Conveyances, and Mortgages, then the said Memorial to be registred, shall be executed by some or one of the Grantors or Grantees named in the Original Deed, Conveyance or Mortgage, his or their Heirs, Executors or Administrators, in the Presence of *Two* other credible Witnesses, *One* of which Witnesses to such Memorial shall, on his Oath, before the said Register or his Deputy, prove the signing such Memorial by some or one of such Grantors or Grantees, his or their Heirs, Executors or Administrators, (which Oath the said Register or his Deputy are hereby impowered to administer) and the said Register or his Deputy shall indorse a Certificate thereof, on such Memorial and sign the same.

VIII. *That*

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VIII. *That every Memorial of any Deed, Conveyance, or Mortgage, shall contain the Day of the Month, and the Year when such Deed, Conveyance, or Mortgage bears Date; the Names and Additions of all the Parties to such Deed, Conveyance, or Mortgage, and the Places of their Abode; and shall express or mention the Honours, Manors, Lands, Tenements, or Hereditaments, contained in such Deed, Conveyance, or Mortgage, and the Names of the Parishes, Townships, Hamlets, Precincts, or extra-parochial Places, within the said County, where any such Honours, Manors, Lands, Tenements or Hereditaments, are lying or being, that are given, granted or conveyed, or any way affected or charged by any such Deed, Conveyance, or Mortgage, in such Manner as the same are expressed or mentioned in said Deed, Conveyance, or Mortgage, or to the same Effect.*

The Contents of Memorials to be registred.

IX. *And every such Deed, Conveyance, or Mortgage, of which the Memorial is to be so registred, shall be produced to the said Register or his Deputy, at the Time of entering such Memorial, who shall indorse a Certificate on every such Deed, Conveyance, or Mortgage, and therein mention the certain Day, Hour and Time, on which such Memorial is so entered, which Certificate, so indorsed, shall also be signed by the said Register or his Deputy.*

Original Deeds, &c. to be produced to the Register who shall indorse a Certificate thereon.

X. *Which Certificates shall be taken and allowed as Evidence of such respective Registries in all Courts of Record in the said Province, and every Page of such Registry Books, and every Memorial that shall be entered therein, shall be numbered, and the Day of the Month, and the Year, and Hour or Time of the Day, when such Memorial is Registred, shall be entered in the Margins of the said Registry Books, and in the Margins of the said Memorials. And the Register or his Deputy shall keep an Alphabetical Calendar of all Parishes, extra-parochial Places and Townships, within the said County, with reference to the Number of every Memorial that concerns the Honours, Manors, &c. in every such Parish, extra-parochial Place, or Township respectively, and of the Names of the Parties mentioned in such Memorial. The Register or his Deputy shall duly file every such Memorial in order of Time, as the same shall be brought to the said Office, and Enter or Register the said Memorials in the same Order as they respectively come to his Hands.*

Certificates to be allowed as Evidence.

Method of Registring,

and Filing.

XI. *That the Register for the Time being, or his Deputy, shall be allowed, for the Entry of every such Memorial, as is by this Act directed to be Registred, the Sum of One Shilling, and no more, in case the same do not exceed Two Hundred Words; and if more, then after the Rate of Sixpence an Hundred for all the Words contained in such Memorial, over and above the first Two Hundred Words: And the like Fees for the like Number of Words contained in every Certificate or Copy given out of the said Office, and no more; and for every Search in the said Office, One Shilling and no more.*

Register's Fees.

XII. *That*

enalty on Forgery.

XII. *That if any Person or Persons shall, at any Time, forge or counterfeit any Entry of the Acknowledgment of any such Memorial, Certificate or Indorsement, as is herein mentioned or directed to be made, and be thereof lawfully convicted, such Person or Persons shall incur and be liable to such Pains and Penalties, as in and by an Act of Parliament made in the Fifth Year of Queen Elizabeth, (intituled *An Act against Forgers of False Deeds and Writings*) are imposed upon Persons for forging and publishing of all false Deeds, Charters or Writings sealed, Court Rolls, or Wills, whereby the Freehold or Inheritance of any Person or Persons of, in, or unto any Lands, Tenements or Hereditaments, shall or may be molested, troubled or charged. And that if any Person or Persons shall, at any Time, forswear him or themselves, before the said Register for the Time being, or his Deputy, in any of the Cases herein mentioned, and be thereof lawfully convicted, such Person and Persons shall incur, and be liable to the same Penalties, as if the same Oath had been made in any Court of Record within this Province.*

an case of Mortgages being satisfied, and a Certificate thereof produced and proved upon Oath, before the Register,

XIII. *That in Case of Mortgages whereof Memorials shall be entered in the Register's Office as before mentioned pursuant to this Act, if at any Time afterwards, a Certificate shall be brought to the said Register or his Deputy, signed by the Mortgagee or Mortgagees, his, her, or their Executors, Administrators or Assigns, and attested by Two Witnesses, whereby it shall appear that all Monies, due upon such Mortgage, have been paid or satisfied in Discharge thereof, which Witnesses shall, upon their Oaths before the said Register or his Deputy, (who are hereby respectively impowered to administer such Oath) prove such Monies to be satisfied or paid accordingly, and that they saw such Certificate signed by the said Mortgagee or Mortgagees, his, her, or their Heirs, Executors, Administrators, or Assigns, that then and in such Case, the said Register or his Deputy shall make an Entry in the Margin of the said Registry Books, against the Registry of the Memorials of such Mortgage, that such Mortgage is satisfied and discharged, according to such Certificate to which the same Entry shall refer, and shall afterwards file such Certificate, to remain upon Record in the said Office.*

An Entry to be made thereof, in the Margin of the Registry Books against the Registry of the Memorials of such Mortgage.

Public Act

XIV. *That this Act shall be taken and allowed in all Courts within this Province, as a publick Act, and all Judges, Justices, and other Persons therein concerned, are hereby required to take such Notice thereof, without special Pleading of the same.*

C A P. III.

An ACT directing the Proceedings against forcible Entry or Detainer.

§ 1. *It is Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That upon Complaint on Oath, made to any Justice of the Peace of this Province, of any wrongful and forcible Entry made into any Houses, Lands, Tenements, or other Possessions, lying within any Town or Place in this Province, where such Justice resides, or of any wrongful Detainer, or with holding with Force after Possession demanded, of any Houses, Lands, Tenements, or other Possessions, every such Justice shall, by Warrant under his Hand and Seal, directed to the Constables of such Town, cause such Offender or Offenders to be arrested and detained in Custody, until he, she, or they, find sufficient Securities for his, her, or their personal Appearance, at the next General Sessions of the Peace, there to answer such Complaint, and for Want of such Security, to be committed to Prison.*

Eng. Stat. 8. H. 6. c. 9. Cartw. 496.

Persons making any forcible Entry into Houses, &c. to be arrested by Warrant from a Justice,

and bound to appear at next Sessions of the Peace, to answer such Complaint.

II. *And be it further Enacted, That the Justices of the said General Court of Sessions, shall have full Power and Authority, by virtue of this Act to enquire by the Oath of the Party grieved, and other credible Proof, as well of him, her, or them as make such forcible Entry into Houses, Lands, Tenements or other Possessions, as of him, her, or them, as detain and hold the same with Force as aforesaid: And if it shall be found by the Jury, then and there returned and sworn, that a forcible Entry is made into any Houses, Lands, Tenements or Possessions, or that the same are detained and held with Force as aforesaid, then the said Justices, by Warrant under the Hand of the Clerk of the said Court, directed to the Provost-Marshal or his Deputy, shall cause the same Houses, Lands, Tenements or other Possessions, within Fourteen Days after such Trial had, to be re seized, and thereof the Party to be again put into Possession, who in such Sort was put out or holden out, wherein no Appeal shall be allowed to such Offender or Offenders. And moreover the Party grieved shall and may by Action of Trespass, recover treble Damages and Costs of Suit against such Offender or Offenders, any Law, Usage or Custom to the contrary notwithstanding.*

Justices in Sessions to enquire of such forcible Entry,

and if proved to the Satisfaction of the Jury,

the Party to be again put into Possession of such Lands, &c.

and recover treble Damages and Costs.

III. *Provided always, That this Act shall not extend or be construed to extend unto any Person or Persons, that have had the Occupation, or have been in quiet Possession of any Lands, Tenements*

Eng. Stat. 31 El. c. 11.

Not to extend to Persons who have been possessed

of Lands, for the
Space of three Years.

ments or Possessions, by the Space of *Three* whole Years together next before, and his, her, or their Estate or Estates therein not ended or determined.

Persons under Disabilities intitled to recover by 1 GEO. III. c. ii. within Five Years after Impediments removed.

Under the English Statutes it has been adjudged,
1st, What Acts amount to a forcible Entry or Detainer, vide 1st Hawk. P. C. 145 & 146;
and Dalton 299; Dyer 122, 187.
2d, What do not amount to a forcible Entry or Detainer, vide Brooke's Ab. Tit. Dure's 12,
16; 1 Inst. 257; 2 Inst. 235; 1 Salk. 356; Cro. Ja. 18; 1 Hawk. P. C. 147; Dal. 300,
315, 316.
3d, On what Possessions forcible Entry or Detainer may be committed, vide Cro. Ja. 41,
Cro. Cha. 201, 486; 1 Lev. 99; 1 Mod. 73.
4th, The Manner of awarding Restitution, vide 1 Hawk. P. C. 152; Co. Litt. 323;
Dal. 314; 1 Vent. 308.
5th, What shall be Bars to Restitution and of superseding Execution of the same, vide
1 Hawk. P. C. 152-154; Dal. 79, 81, 84.

C A P. IV.

An ACT to prohibit the Erecting of Distilling Houses,
or setting up Stills within the Town of *Halifax*, or
within one Quarter of a Mile of the present Lines
or Pickets of the said Town.

No Distilling
Houses or Stills to
be erected within
the Town of *Halifax*,
or within a
Quarter of a Mile
of the Picketed
Lines, on Penalty
of £100.

Such Stills deemed
Public Nuisances.

 *Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted,* That from and after the Publication hereof, no Person or Persons whatsoever, shall erect any Distilling Houses, or set up any Stills for distilling of Cordial Waters, or any Spirituous Liquors, within the Town of *Halifax*, or within one Quarter of a Mile of the present Lines or Pickets of said Town; on Pain of forfeiting the Sum of *One Hundred Pounds*, for every Still so set up, and Distilling House so erected; to be recovered by Bill, Plaint, or Information, in any of His Majesty's Courts of Record within this Province; one fourth Part to the Informer or Prosecutor, the Remainder to the Uses of the Government; and the said Stills shall be deemed and adjudged to be a public Nuisance, and shall be accordingly removed.

C A P. V.

An ACT for the Establishment of *Religious Publick Worship* in this Province, and for suppressing of *Popery*.

Preamble.

 *WE ORASMUCH as His Majesty upon the Settlement of the Province, was pleased, in His pious Concern for the Advancement of GOD's Glory, and the more decent Celebration of the Divine Ordinances amongst us, to erect a Church for Religious Worship, according*

ing to the Usage of the Church of England; in humble Imitation of His Royal Example, and for the more effectual Attainment of His Majesty's pious Intentions, that we might in the Exercise of religious Duties, be seeking for the Divine Favour and Protection, Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, That the Sacred Rites and Ceremonies of Divine Worship, according to the Liturgy of the Church established by the Laws of England, shall be deemed the fixed Form of Worship amongst us, and the Place wherein such Liturgy shall be used, shall be respected and known by the Name of the Church of England as by Law established. And that for the Preservation of Purity and Unity of Doctrine and Discipline in the Church, and the right Administration of the Sacraments, no Minister shall be admitted to officiate as a Minister of the Church of England, but such as shall produce to the Governor, a Testimonial, that he hath been licenced by the Bishop of London, and shall publickly declare his Assent and Consent to the Book of Common Prayer, and shall subscribe to be conformable to the Orders and Constitutions of the Church of England, and the Laws there established; upon which the Governor is hereby requested to induct the said Minister into any Parish that shall make Presentation of him. And if any other Person pretending himself a Minister of the Church of England, shall, contrary to this Act, presume to teach or preach publickly or privately, the Governor and Council are hereby desired and impowered to suspend and silence the Person so offending.

Liturgy of the Church of England established.

No Minister to officiate without a Certificate from the Bishop of London.

Others to be silenced.

II. *Provided nevertheless*, and it is the true Intent and Meaning of this Act, That Protestants, dissenting from the Church of England, whether they be Calvinists, Lutherans, Quakers, or under what Denomination soever, shall have free Liberty of Conscience, and may erect and build Meeting Houses for Public Worship, and may choose and elect Ministers for the carrying on Divine Service and Administration of the Sacraments, according to their several Opinions; and all Contracts made between their Ministers and their Congregations for the Support of the Ministry, are hereby declared Valid, and shall have their full Force and Effect, according to the Tenor and Conditions thereof; and all such Dissenters shall be excused from any Rates or Taxes to be made and levied for the Support of the established Church of England.

Protestant Dissenters excepted,

and excused from Rates for the Support of the established Church of England.

III. *And be it further Enacted*, That every Popish Person, exercising any ecclesiastical Jurisdiction, and every Popish Priest or Person exercising the Function of a Popish Priest, shall depart out of this Province on or before the Twenty Fifth Day of March, 1759. And if any such Person or Persons shall be found in this Province after the said Day, he or they shall, upon Conviction, be adjudged to suffer perpetual Imprisonment: And if any Person or Persons so imprisoned, shall escape out of Prison, he or they shall be deemed and adjudged to be guilty of Felony without Benefit of Clergy.

Eng. Stat. 11. § 12.
W. 1. c. 10.
Sect. 3.
Popish Priests to depart the Province before the 25 March 1759, on Pain of perpetual Imprisonment.

Escape to be deemed Felony.

IV. *And be it further Enacted*, That any Persons, who shall knowingly harbour, relieve, conceal, or entertain any such Clergyman of the Popish Religion, or Popish Priest, or Persons exercising the

Eng. Stat. 27. El.
c. 11.

Persons harbouring
Popish Priests to
forfeit £50.

the Function of a *Popish Priest*, shall forfeit *Fifty Pounds*, one Moiety to His Majesty for the Support of His Government in this Province, and the other Moiety to the Informer, and shall be also adjudged to be set in the Pillory, and to find Sureties for his good Behaviour at the Discretion of the Court.

Offences to be de-
termined at the Su-
preme Court, or by
a Special Commis-
sion of Oyer and
Terminer.

V. *And be it Enacted*, That every Offence against this Act, shall and may be inquired of, heard and determined, at His Majesty's *Supream Court*, *Court of Assize*, and *General Gaol Delivery*, or by a special Commission of *Oyer and Terminer*.

Any Justice of the
Peace may commit
Popish Priests or
Persons harbouring
them, and bind the
Witnesses to appear.

VI. *And be it further Enacted*, That it shall and may be lawful for any Justice of the Peace, upon Information by Oath, or any reasonable Cause of Suspicion, to issue his Warrant for apprehending any such *Popish Ecclesiastical Person*, *Popish Priest*, or Person exercising the Function of a *Popish Priest*, or any Persons knowingly harbouring, relieving, concealing or entertaining, them or any of them, and to commit any such Person or Persons respectively, who shall so offend against this Act, to His Majesty's Gaol, for Trial as aforesaid, and to require Sureties for the Appearance of the Witness or Witnesses, against any Offender or Offenders, upon such Trial; and to make Return of his Proceedings to such Court on the Information of such Witnesses, and the Examination of any Offender or Offenders.

Not to extend to
such *Romish Eccle-
siastical Persons* as
are sent into the
Province as Priso-
ners of War, or dri-
ven in by Ship-
wreck &c.

VII. *Provided nevertheless*, That this Act shall not extend, or be construed to extend to any such *Romish Ecclesiastical Persons*, who shall be sent into the Province as Prisoners of War, or who shall by Shipwreck or any other Distress or Necessity, be driven into the Province, so as that such Prisoners of War do not escape before they can be sent out of the Province, or that such Persons arriving through Necessity as aforesaid, depart out of the Province as soon as they may be Opportunity; and that they also forthwith after their Arrival, attend the Governor or Commander in Chief of the Province for the Time being, if near the Place of his Residence, or otherwise a Justice of the Peace, and represent the Necessity of their Arrival, and obey such Directions as the said Governor, Commander in Chief, or Justice shall give them for their Departure; and so as that neither the said Prisoners of War, nor the said Persons arriving through such Necessity, shall exercise any *Ecclesiastical Jurisdiction*, or any Part of the Function of a *Popish Priest*, during his or their Abode in the Province, in which Case he or they shall be liable to the Penalties of this Act.

Vid. an Addition to this Act. 33 G. II. c. iii. s. 8th.

C A P. VI.

An ACT for Establishing and Regulating a
MILITIA.

XXXX *HEREAS* by His Majesty's Royal Instructions to his Excellency
 XXXX *W* the Governor of this Province, he is directed to cause a Mi-
 XXXX *l* litia to be established as soon as possible: AND WHEREAS
 the Security and Preservation of this Province greatly depends
 upon the said Militia being put into Methods, and under such Rules as may
 make the same most useful for the Support and Defence thereof, and that
 the Inhabitants should be well armed and trained up in the Art Military,
 as well for the Honour and Service of His most Sacred Majesty, and the
 Security of this His Province, against any Violence or Invasion whatso-
 ever, as for the Preservation of their own Lives and Fortunes, and that
 every Person may know his Duty herein, and be obliged to perform the
 same: Be it Enacted by His Excellency the Governor, Council, and Assem-
 bly, and by the Authority of the same it is hereby Enacted, That from and
 after the first Day of December, 1758, All Male Persons, Planters,
 and Inhabitants and their Servants, between the Ages of Sixteen
 and Sixty, residing in and belonging to this Province, shall bear
 Arms and duly attend all Musters and military Exercises of their
 respective Companies where they shall be enlisted or belong, allow-
 ing Three Months Time to every Son after coming to Sixteen Years
 of Age, and every Servant so long after his Time is out, to provide
 themselves with Arms and Ammunition.

Preamble.

Persons liable to
Train.

II. And the Clerk of each Company, once a Quarter Yearly,
 shall take an exact List of all Persons living within the Precincts
 of such Company, and present the same to the Captain or chief
 Officer, on Pain of forfeiting Forty Shillings for each Default, to
 be paid to the Captain or chief Officer to the Use of the Company,
 and in Case of Non Payment, to be levied by Distress and Sale of
 the Offenders Goods, by Virtue of a Warrant from the Captain or
 chief Officer, who is hereby impowered to grant the same.

Clerk to take a List
of the Company
once a Quarter.

III. That every Person enlisted in any Company, shall so con-
 tinue and attend all Duty in such Company, or otherwise suffer the
 Penalty by Law provided, until orderly dismissed or removed out
 of the Town or Precinct of such Company, and in Case of Re-
 moval into the Precinct of another Company in the same Town,
 produce a Certificate under the Hand of the Captain or chief
 Officer of the Precinct whereunto he is removed, that he is enlist-
 ed there.

Persons to attend
Duty where enlisted.

IV. If any Person liable to be enlisted as aforesaid, do exempt
 himself by shifting from House to House, or Place to Place, to avoid
 being so enlisted, he shall pay as a Fine for every such Offence, to
 the

Penalty to be on such
as shall attempt to
avoid enlisting.

the Use of the Company to which he properly belongs, *Ten Shillings*, being thereof convicted before any one of His Majesty's Justices of the Peace for the County wherein the Offence shall be committed.

Militia Soldiers
how to be armed.

V. That every Militia inlisted Soldier and other Householder residing as aforesaid, shall be always provided with proper and sufficient Fire Arms, consisting of a Musket, Gun, or Fuzil, not less than *Three Feet* long in the Barrel, two spare Flints, and Twelve Charges of Powder and Ball suitable to their respective Fire Arms, and to the Satisfaction of the Commission Officers of the Company to which he belongs, on Penalty of *Forty Shillings*, for want of such Arms as is hereby required, and *Two Shillings* for each other defective Appurtenant; and the like Sum for every *Four Weeks* he shall so remain unprovided or deficient: The Fine to be paid by Parents for their Sons under Age and under their Command, and by Masters or Heads of Families for their Domesticks or Servants, other than Servants upon Wages; to be levied on the Goods and Chattels of the Offender or Offenders, their Parents or Masters, by Warrant under the Hand and Seal of one or more of His Majesty's Justices of the Peace for the County wherein the Offence shall be committed, and for want of sufficient Distress, such Offender or Offenders to suffer *One Month* Imprisonment and hard Labour.

Regimental Musters
and Training of
Companies.

VI. That Regimental Musters shall be made once in every *Six Months*, or as often as shall be required by the Governor or Commander in Chief of this Province for the Time being, and every Captain or Chief Officer of any Company or Regiment, shall be obliged, on Penalty of *Five Pounds*, to draw forth his Company, or cause them to be drawn forth, once every *Three Months* and no more, to exercise them in Motions, the Use of Arms, and shooting at Marks, or other military Exercises, which every Person liable to be trained, having *Three Days* Notice thereof, and not appearing and attending the same, shall, for each Day's Neglect, pay a Fine of *Five Shillings*.

Power of Commission Officers.

VII. That the Commission Officers of any Company, or the major Part of them, may order the correcting and punishing Disorders and Contempt on a Training Day, or on a Watch; the Punishment not being greater than Commitment to hard Labour, not exceeding *Forty Eight Hours*, or *Five Shillings* Fine.

Military Watches.

VIII. That there be *military Watches* appointed and kept at such Times, in such Places, in such Numbers, and under such Regulations, as the Governor or Commander in Chief of this Province for the Time being shall appoint; and that all Persons able of Body, and that are of Age, shall by themselves, or some proper Person in their stead, to the Satisfaction of the Commanding Officer of the Watch, attend the same, on Penalty of *Ten Shillings* for each Defect, there having been due Warning given.

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IX. Every

IX. Every Militia Soldier or other Person liable by Law, refus-
ing or neglecting to attend military Exercises on Training Days,
or military Watches, that shall not pay or have any Estate to be
found whereon to levy the Fine, it shall be in the Power of the
Captain or chief Officers of such Company, on the next Training
Day after such Neglect, (he not having satisfied the Clerk) to
punish him for such Offence by Commitment to hard Labour, not
exceeding *Five Days*; and if such a Delinquent shall absent him-
self the *Second Day*, without giving sufficient Reason to the Captain
or chief Officer for such Absence, it shall be in the Power of the
chief Officer of the Company to direct a Warrant to any of the
Constables of the Town wherein the said Offence shall be com-
mitted, requiring him to apprehend such Delinquent, and bring
him into the Field, that he may be punished as by this Law is pro-
vided; and all Constables are hereby required to execute such
Warrants accordingly.

Penalty for not at-
tending Military
Exercises.

X. That the Persons hereafter named be exempted from all
Trainings, except such as shall receive Commissions in the Militia;
viz. The Members of His Majesty's Council, the Members of the
Assembly for the Time being, the Chief Justice, and other Judges
of Courts, Justices of the Peace, Attorney General, Treasurer of
the Province, Register of the Province, Chief Surveyor of Lands,
Naval Officer, and his Deputy or Clerk, the Secretary, Ministers,
Provost Marshal, Field Officers, the Collector and Surveyor of
His Majesty's Customs, and the Waiter, constant Ferry Men, one
Miller to each Grist Mill, constant Herdsmen, and lame Persons
or otherwise disabled in Body, producing a Certificate thereof from
two able Chirurgeons.

Persons exempted
from Trainings.

XI. That the Members of His Majesty's Council be, and here-
by are exempted from military Watches and Warding.

Members of the
Council exempted
from Watches and
Warding.

XII. That the Captain and Commission Officers of each Com-
pany shall, and are hereby fully impowered, to nominate and ap-
point proper Persons to serve as *Serjeants* and *Corporals* in their re-
spective Companies, and to displace them and appoint others in
their Room, as they shall see Occasion.

Commission Officers
to appoint Serjeants
and Corporals.

XIII. That twice every Year, or oftner if required, every Cap-
tain or chief Officer of each Company, shall give Order for a dili-
gent Enquiry into the State of his Company, and for taking an ex-
act List of the Names of his Soldiers, and other Inhabitants within
the Limits of his Company, and of the Defects of Arms or
otherwise, and Names of the defective Persons, that they may be
prosecuted as the Law hath provided, and that such Care may be
taken as is proper to remedy the same.

View of Arms to be
made twice a Year.

XIV. That if any Person who is by Law obliged to provide
Arms and Ammunition, cannot purchase the same by such Means
as he hath, if he bring to the Clerk of the Company the full Value
thereof, according to the Appraisement of the Clerk and two other
Persons

How Persons unable
to buy Arms, may
be provided.

Persons mutually chosen, he thereupon shall be excused from the Penalties for want of Arms and Ammunition, until he can be provided, which the said Clerk shall provide as soon as may be, by Sale of such Goods, and render the Overplus, if any be; but the Party shall notwithstanding give his personal Attendance upon all Occasions as other Militia Soldiers, until he be supplied, and at such Times shall perform any proper Service he may be put upon by the Captain or chief Officer of the Company he belongs to: But if the Person be adjudged unable to buy Arms, or to lay down the Value proposed, if he be a single Man, he shall be put out to Service by any two of His Majesty's Justices of the Peace, to earn wherewith to buy Arms and Ammunition.

Penalty 40s. for refusing to serve as Clerk.

XV. That such proper Person as by the Commission Officers of any Company shall be appointed Clerk, and shall refuse to serve, shall pay *Forty Shillings* Fine, and another be chosen in his Room, and so until one do accept; which Person shall be under Oath for the faithful Discharge of his Office, to be administered unto him by a Justice of the Peace of the County, in the Words following.

Clerk's Oath.

YOU do swear truly to perform the Office of Clerk of the military Company under the Command of A. B. Captain, to the utmost of your Skill and Power, in all Things appertaining to your Office, according to Law.

So help you G O D.

His Allowance.

XVI. And for every Distraint made for any Fine not exceeding *Forty Shillings*, he shall have one Quarter Part for his Pains and Trouble, and for such Fines he may distrain *ex officio*, and in such Distress shall observe such Rules as the Law hath provided in other Cases; and upon *Ten Days* Notice shall account with and pay the Captain or chief Officer what Fines he hath received, his own Part being deducted.

Meeting of the Chief Officers of the Regiment,

XVII. The chief military Officer of the Regiment, as often as he shall see cause, shall require the Captain or chief Officer of each Company in his Regiment, to meet at such Time and Place as he shall appoint, and there with them to confer, and give in Charge such Orders as shall by them, or the major Part of them, be judged meet for the better ordering and settling their several Companies, and for the better promoting military Discipline amongst them; and the chief Officer is hereby empowered by his Warrant, directed to any Clerk or Officer of his Regiment, to summon or cause to be brought before them any Offender against this Act; and according to Law to hear and determine all Matters proper for their Cognizance, and to give Sentence, and to grant Mittimus or Warrants of Distress to the Clerk of the Company where the Offence is committed; for executing which Warrant, if above *Forty Shillings*, he shall have *Ten Shillings* out of the same for his Pains and Trouble therein, and no more.

their Power.

Clerk not to distrain *ex officio*,

XVIII. That no Clerk *ex officio* make Distraint for any Fine until *Six Days* after the Offence committed, that so the Party may have

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have Opportunity to make Excuse, if any he hath, why he should not pay the Fine, and every Clerk that neglects or refuses to account or make Payment as by this Law is provided, he, by a Warrant from the chief Officer of the Company, directed to the Constable, may be distrained on for so much as he hath or should have collected or distrained for.

until Six Days after the Offence committed.

XIX. That all Officers yield Obedience to the Warrants or Commands of their Superior Officers, on Penalty of *Five Pounds*, to be heard and determined at the next Meeting of the chief Officers and Captains of the Regiment, and the Fine to be taken by Distress and Sale of the Offender's Goods, (returning the Overplus if any be) by Warrant from the chief Officer of the Regiment, directed to the Clerk of the Company to which such Offender belongs, and to be applied to the Use and Benefit of such Company as the Officers so met shall agree, their Expences being first defrayed out of the same, not exceeding *Twenty Shillings*.

Penalty £5. on Officers disobeying their Superior Officers.

XX. That an Alarm at the Citadel in the Town of *Halifax*, being made upon such Causes as are agreeable to Instructions to be given by the Governor or Commander in Chief for the Time being, to the Officer commanding at the said Citadel, shall be by firing a Beacon at the Summit of the Citadel Hill, or such other Place as the Governor or Commander in Chief for the Time being shall hereafter appoint, and by firing four Guns at the Parade in the Town of *Halifax*, or at such other Place as the Governor or Commander in Chief for the Time being shall appoint, distinctly one after the other, and also by firing four Guns at *George's Island*, distinctly one after the other, and at the Distance of *Five Minutes* after the Firing the Four first mentioned Guns at the Parade, or such other Place as aforesaid, all Persons being called up to Arm, upon which all the trained Officers, Soldiers, and others capable to bear Arms, that are then resident in the said Town, Suburbs, or Peninsula of *Halifax*, in Case the Alarm should be made, shall forthwith appear compleat with their Arms and Ammunition according to Law, at such Place or Places of Rendezvous as may, from Time to Time, be appointed by the Governor or Commander in Chief for the Time being, there to attend such Commands as shall be given for His Majesty's Service, and that on the Penalty of *Five Pounds*, or *Three Months Imprisonment*. The Members of His Majesty's Council, Justices, and Provost Marshal, to attend upon His Excellency the Governor, if at *Halifax*, and in other Places to appear and advise with the chief Military Officers of the Place where such Alarm shall be made, and to be assisting in His Majesty's Service according to their Quality. And if any Person shall wilfully make any false Alarm he shall be fined to His Majesty *Fifty Pounds*, for Support of the Government, or suffer *Twelve Months Imprisonment*. And all Alarms in other Parts of the Province, to be according to Instructions given by the Governor or Commander in Chief for the Time being, to the Officers commanding there.

Alarm, how to be made.

Penalty s^d. not appearing upon an Alarm.

Penalty 40s. for firing Guns, &c. after Sunset at *Halifax*, &c.

XXI. And for the better preventing of false Alarms, *Be it further Enacted by the Authority aforesaid*, That no Captain, Master or Commander of any Ship or Vessel, riding at Anchor or being within the Harbour of *Chebueto*, or any other Person or Persons whatsoever, either afloat or on shore, within the Town, Suburbs, or Peninsula of *Halifax*, the Town or Suburbs of *Dartmouth*, or Places adjacent, shall presume to fire any Guns or small Arms, or beat any Drum, after Sunset, unless on some lawful Occasion, under the Penalty of *Forty Shillings* for every Gun or small Arm so fired or Drum beaten, to be levied by Warrant from any one of His Majesty's Justices of the Peace for the County of *Halifax*, (who is hereby empowered to issue the same and to give Judgment thereupon) by Distress and Sale of the Offender's Goods, and for Want of such Distress, to commit such Offender to the Gaol, there to remain until Payment be made of the same.

Not to extend to Officers of His Majesty's Ships or Troops, firing in the Execution of their Duty.

XXII. *Provided always*, That this Clause shall in no wise be construed to extend to any Captain or other Officer of any of His Majesty's Ships of War, for their firing at setting the Watch, nor to any of His Majesty's Troops on Shore or on Board, in the Execution of their Duty.

Persons exempted from Training to be provided with Arms and Ammunition.

XXIII. That all Persons exempted by this Law from Training shall, notwithstanding, be provided with Arms and Ammunition complete, upon the same Penalty as those that are obliged to Train.

Prosecution to be within three Months.

XXIV. *Provided*, That no Person or Persons whatsoever shall be sued, prosecuted, or his Goods and Chatels liable to any Seizure, by Virtue of any Clause in this Act before mentioned, but within the Space of *Three Months* after the committing the respective Facts hereby made Offences, and not at any Time after the said *Three Months*.

Fines how to be recovered and disposed of.

XXV. All Fines, Penalties, and Forfeitures arising by Virtue of this Act or any Breach thereof, (not otherwise disposed of therein) shall be for the Use of the Regiment or Company respectively wherein the same doth arise, (*that is to say*) for the procuring and repairing Drums, Colours, Banners, Halberts, Pay of Drummers, or other Charge of the said Company, and the Overplus, (if any be) to be laid out in Arms and Ammunition for a Town Stock: And be recoverable by Action, Bill, Plaint, or Information, in any of His Majesty's Courts of Record.

Militia at *Halifax*, not to Watch, &c. without the picketted Lines, whilst Regular Troops are there.

XXVI. *And it is hereby humbly requested of His Excellency the Captain General*, by the Assembly, *And be it Enacted*, That whilst there is a sufficient Number of regular Troops within the Town of *Halifax*, for its Defence, the Militia of the Town shall be spared from Watching and Warding without the Picketted Lines of the Town.

C A P. VII.

An ACT for Establishing the Rate of *Spanish Dollars*,
and the Interest of Money within this Province.

Repealed by His
Majesty in Council.

C A P. VIII.

An ACT for erecting a *Light House* at the Entrance
of the Harbour of *Halifax*.

Exec.

C A P. IX.

An ACT for erecting a *House of Correction*, or *Work-
House*, within the Town of *Halifax*.

Exec.

C A P. X.

An ACT to prevent *forestalling the Market*.

HEREAS large Quantities of live Stock, fresh Provision,
and other Articles, are imported into this Province for Sale
from the neighbouring Colonies, and divers Persons make a
Practice of engrossing the same immediately upon the Arrival
thereof, to the great Prejudice of the Inhabitants; Be it enacted by His
Excellency the Governor Council, and Assembly, and by the Authority
of the same it is hereby Enacted, That all Kinds of live Stock, (Oxen
and Sheep excepted) all dead fresh Provision, Grain, Hay, Roots, or Gar-
den Stuff, which shall be imported for Sale into any Port of this
Province, after Publication hereof, shall, by the Importers thereof,
be brought to some Public Wharf, and there openly exposed to
Sale, for Forty Eight Hours; and public Notice shall be given
thereof through the Town or Place where the same shall be so
imported, by the common Cryer: And no such live Stock or
dead fresh Provision whatsoever, Grain, Hay, Roots, or Garden
Stuff, shall, during the said Forty Eight Hours, be sold, or
contracted for in Gross, to or with any Person or Persons whatso-
ever, on Penalty of the Forfeiture of the Article or Articles so sold
or bought, or contracted for, or the Value thereof, upon Conviction
by the Oath of one credible Witness before any two of His
Majesty's Justices of the Peace, to be levied by Warrant of Dis-
tress, under the Hands and Seals of the said Justices; One Half of
such Forfeitures to be to the Use of the Informer, and the other
Half to the Use of the Poor of the Place where such Forfeiture shall
be incurred.

Preamble.

Live Stock, Dead
fresh Provisions, &c.
to be exposed to
Sale 48 Hours,
on some public
Wharf.

Notice to be given
thereof by the Cryer.

not to be ingrossed
on Pain of forfeiting
the Value.

II. Provided,

Not to extend to
Flour, Biscuit or
Fish.

Dead fresh Provisi-
on, perishing, ex-
cepted.

Prosecution within
Ten Days.

II. *Provided always*, That nothing in this Act shall be construed to extend to the Importation of *Flour* of all Kinds, *Biscuit Bread*, or *Fish*.

III. *Provided also*, That in Case any *dead fresh Provision* shall, at any Time be imported, which by the length of the Passage, or other Accident, shall be perishing, or in a decaying Condition, That then, upon Application of the Importer to Two of His Majesty's Justices of the Peace, setting forth upon Oath, such the Condition of the Provision so Imported, such Justices may, and they are hereby impowered, under their Hands and Seals, to grant Permission to such Importer, immediately to sell and dispose of such Provision in the speediest manner, any thing in this Act contained to the contrary notwithstanding.

IV. *And be it further Enacted*, That all Prosecutions under this Act, shall be within *Ten Days* after the Offence committed.

C A P. XI.

An A C T relating to *Wills*, *Legacies*, and *Executors*, and for the Settlement and Distribution of the Estates of *Intestates*.

§ 1. *It is enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted*, That every Person shall have Power to give and devise, by his or her last *Will and Testament* in Writing, and signed by the Party so giving and devising, or by some other Person in his Presence, and by his express Directions, and attested and subscribed, in the Presence of the Devisor, by Three or more credible Witnesses *any Lands, Tenements, or Hereditaments*, whereof he or she shall, at the Time of his or her so giving or devising the same by such *Will*, be lawfully seized, either of a Sole Estate in Fee simple, or of any Estate in Coparcenary, or in Common in Fee simple, in Possession, Reversion, or Remainder, as much as in him of Right is, to the said *Lands, Tenements and Hereditaments*, or in like Manner to devise any Rents or Profits out of the same at his Pleasure. *Provided*, that *Wills* made of any *Lands, Tenements, or Hereditaments*, or any Rents or Profits out of the same, by any *Woman Covert*, or Person within the Age of *Twenty One Years, Idiot*, or of *unsound Mind*, shall not be good in Law.

II. *And be it further Enacted*, That no *Devise* in Writing of any *Lands, Tenements, or Hereditaments*, shall be revocable, otherwise than by some other *Will* or *Codicil* in Writing, or other *Writing* signed in the Presence of Three or more Witnesses, declaring the same, or by burning, cancelling, tearing or obliterating the same by the *Testator* himself, or in his Presence, and by his Directions and Consent.

III. *And*

Eng. Stat. 34 &
135. H. 8. c. 5. Sect.
4. 14. 29. Car. 2.
c. 3. Sect. 5. 6.

Any Person may,
by their last Will,
devise Lands, &c.

3. Lev. 86.
Carthew 135. 514.
3. Mod. 218. 262.

Feme Covert, &c.
excepted.

No Devise in Wri-
ting to be revocable
but by another Will,
&c.

3. Mod. 260.

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III. *And be it further Enacted by the Authority aforesaid, That from and after the First Day of January, in the Year of our Lord One Thousand Seven Hundred and Fifty nine, no Nuncupative Will shall be good, where the Estate thereby bequeathed, shall exceed the Value of Thirty Pounds, that is not proved by the Oath of Three Witnesses (at the least) that were present at the making thereof, nor unless it be proved that the Testator, at the Time of pronouncing the same, did bid the Persons present, or some of them bear Witness, that such was his Will, or to that Effect; nor unless such Nuncupative Will was made in the Time of the last Sickness of the Deceased, and in the House of his or their Habitation or Dwelling, or where he or she hath been Resident, for the Term of Ten Days or more, next before the making of such Will, except where such Person was surpris'd or taken sick, being from his own House, and died before he returned to the Place of his or her Dwelling.*

Eng. Stat. 29. Car. 2.
c. 3. Sect. 19.
Nuncupative Will

IV. *And be it further Enacted, That after Six Months past after the speaking of the pretended Testamentary Words, no Testimony shall be received to prove any Will Nuncupative, except the said Testimony or the Substance thereof, be committed to Writing, within Six Days after making the said Will.*

Eng. Stat. 29. Car. 2.
c. 3. Sect. 20.
Not to be proved
after Six Months
unless, &c.

V. *And be it further Enacted, That no Letters Testamentary or Probate of any Nuncupative Will, shall pass the Seal of any Court, till Fourteen Days, at the least, after the Decease of the Testator be fully expired, nor shall any Nuncupative Will be at any Time received to be proved, unless Process have first issued to call in the Widow, or next of Kindred to the Deceased, to the End they may contest the same. And all such Witnesses as ought to be allowed to be good Witnesses upon Trials at Law, shall be deemed good Witnesses to prove any Nuncupative Will, or any Thing relating thereunto.*

Eng. Stat. 29. Car. 2.
c. 3. Sect. 21.
Letters Testamen-
tary, &c. not to
pass any Court till
14 Days after the
Testator's Decease.

Eng. Stat. 4. & 5. Ann.
c. 16. Sect. 14.

VI. *And be it further Enacted, That no Will in Writing, concerning any Personal Estate shall be repealed, nor shall any Clause, Devise, or Bequest therein, be altered or changed by Words or Will, by Word of Mouth only, except the same be, in the Life of the Testator, committed to Writing, and, after the Writing thereof, read unto the Testator and allowed by him, and proved to be so done, by Three Witnesses at the least. Provided nevertheless, That any Soldier, being in actual Military Service, or any Mariner or Seaman, being at Sea, may dispose of his Moveables, Wages, and Personal Estate, as they might have done before the making this Act, and that nothing in this Act shall alter the Jurisdiction or Right of Probate of Wills, concerning Personal Estates vested in the Governor, or Commander in Chief for the Time being, who shall retain the same Right and Power as they had before in every respect, subject nevertheless to the Rules and Directions of this Act.*

Eng. Stat. 29. Car. 2.
c. 3. Sect. 22. & 23.
No Will in Writing
concerning Personal
Estate, to be re-
pealed, or changed
by Word of Mouth
only, unless com-
mitted to Writing
in the Life of the
Testator.
Soldiers and Sea-
men excepted.

Not to extend to
Probate of Wills
concerning Personal
Estates, vested in
the Governor.
Eng. Stat. 29. Car. 2.
c. 3. Sect. 24.

Executors, knowing of their being appointed, to prove Wills in 30 Days, &c.

on Penalty of 5*l*. per Month.

Eng. Stat. 21. H. 8.

c. 5. Sect. 3.

Upon the Executor's Refusal, the Judge to commit Administration to the Widow, or next of Kin, and on their Refusal, to Principal Creditors.

Penalty for suppressing Wills.

Legacies ascertained, recoverable at the Common Law.

Executors to exhibit an Inventory of the Estate of the deceased, within the Months after date, on Pain of for every Neglect,

liable to ac-
in like Man-
Administra-

VII. *And be it further Enacted by the Authority aforesaid.* That if any Executor or Executors of the Will of any Person deceased, knowing of their being so named and appointed, shall not, within the Term of *Thirty Days* next after the Decease of the Testator, cause such Will to be proved, and recorded in the Register's Office, of the same County where the deceased Person last dwelt, or present the said Will, and declare his or their Refusal of the Executorship; every Executor so neglecting his or her Trust and Duty in that Behalf, (without just Excuse made and accepted for such Delay) shall forfeit the Sum of *Five Pounds* every Month; from and after the Expiration of the said *Thirty Days*, until he or they shall cause Probate of such Will to be made, or present the same as aforesaid: Every such Forfeiture to be had and recovered by Action of Debt, in the *Inferior Court of Common Pleas* in the same County; at the Suit of any of the Heirs or Creditors, and for the Use of him or them that shall inform and sue for the same. And upon any such Refusal of the Executor or Executors, the Judge shall commit Administration of the Estate of the Deceased, with the Will annexed, unto the Widow, or next of Kin to the Deceased, and upon their Refusal, to one or more of the principal Creditors as he shall think fit.

VIII. *And be it further Enacted,* That if any Person or Persons shall be found guilty of suppressing any last Will and Testament, such Person or Persons shall be subject and liable to the same Penalty, as by this Act is prescribed for Persons neglecting to prove any last Will and Testament.

IX. *And be it further Enacted,* That where any certain Legacy is or shall be bequeathed, and given by any Person in his or her last Will and Testament, as also where any Residuary, or uncertain Legacy is, or shall, by the Account of any Executor, be reduced to a Certainty, every such Legacy and Legacies as aforesaid, may be sued for and recovered at the Common Law; any Law, Custom or Usage to the contrary notwithstanding.

X. *And be it further Enacted,* That henceforth every Executor named in any Will, taking upon him that Charge by proving such Will, within the Space of *Three Months* next after Probate thereof, (or at such further and longer Time, as the Judge of Probate shall see meet to allow, the Circumstances of any Estate requiring the same) shall exhibit into the Register's Office, upon Oath, a full and true Inventory of the whole Estate of the Deceased, so far as is then come to his Hands and Knowledge; and shall add thereto what and so much as may further afterwards appear, on Pain of forfeiting *Five Pounds* for every Month's Neglect thereof afterward, as is by Law provided for not presenting a Will, and to be recovered in like Manner. *Provided nevertheless,* That in Wills where, after the Payment of Debts, and of any certain particular Legacy or

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or Legacies, the Residue or Remainder of the Estate, is bequeathed generally to any one or more Persons, other than the Executors themselves; in every such Case, an Inventory of the Estate shall be presented upon Oath as aforesaid, and the Executors shall be liable to account as Administrators are, by Law, obliged to do.

XI. And any Executor being a residuary Legatee, may bring his Action of Account against his *Co Executor* or *Executors*, of the Estate of the *Tefator*, in their Hands, and may also sue for and recover his equal and rateable Part thereof. And any other residuary Legatee shall have like Remedy against the Executors.

Residuary Legatee
may bring Action
of Account against
Executors.

XII. And be it further enacted, That when and so often as it shall happen that any Person dies *Intestate*, upon Application of the Widow or next of Kin to the *Intestate*, within *Thirty Days* after the Death of such *Intestate*, the said *Judge of Probate* shall grant *Letters of Administration* to such Widow or next of Kin: And in case they neglect to apply within the said *Thirty Days*, upon first citing such Widow or next of Kin, and their Refusal to accept the same, such *Judge of Probate* shall grant Administration to such Person or Persons as he shall judge fit; and he shall thereupon take Bond with Sureties, in Manner as is directed by the Statute of the *Twenty Second and Twenty Third of Charles the Second, Chapter the tenth*, intituled, *An Act for the better settling Intestates Estates*; and shall and may proceed to call such Administrators to Account for, and touching the Goods of the *Intestate*: And upon due Hearing and Consideration thereof, (Debts, Funeral, and just Expences of all Sorts, being first allowed) the said *Judge* shall, and hereby is fully empowered, to order and make a just Distribution of the *Surplusage*, or remaining Goods and Estate, as well *Real* as *Personal*, in Manner following, *That is to say*, *One Third Part* of the *Personal Estate*, to the Wife of the *Intestate* for ever, besides her Dower in the *Houses* and *Lands* during Life, where such Wife shall not be otherwise Endowed before Marriage; and the said *Judge*, having appointed *Guardians* in Manner as hereafter may or shall be by Law prescribed for all *Minors*, shall then, out of all the Residue of such *Real* and *Personal Estate*, (a) distribute *two Shares* or a *double Portion* to the *Eldest Son* then Surviving, (where there is no Issue of the *First* born, or of any other *Elder Son*) and the Remainder of such Residue equally to and amongst his other Children, and such as shall legally represent them; *Provided* that Children advanced by Settlement or Portions not equal to the others Shares, shall have so much of the *Surplusage*, as shall make the Estate of all to be equal, except the *Eldest Son* then Surviving (where there is no Issue

Administration,
Eng. Stat. 22 & 23,
Car. 2. c. 10. Sect. 2.
Vaughan 96.

and Distribution of
Estates of Intestates.

(a) Respecting the Distribution of Personal Estate, Vide 22 & 23 CAR. II. c. 10. Sect. 4. Vern. 465 2 Mod. 20. 101. 3 Mod. 58. Shower 25. As to the Distribution of Inheritances different from the Course of Descents at Common Law, this Act was founded upon the Cases of Assemblies in other Colonies, particularly of the Massachusetts Bay, which Act, was solemn Hearing and Argument before His Majesty in Council, about the Year 1735, in the Case of Philips and Savage, by Appeal from a Decree of the Governor and Council of that Province, was judicially ratified and confirmed.

due of the *First* born, or of any other *Elder Son*) who shall have *two* Shares or a *double Portion* of the whole.

Children advanced
in the Lifetime of
the Intestate.

XIII. *And be it further Enacted*, That such Estate wherewith such Child or Children, have been advanced in the Lifetime of the *Intestate*, shall be accounted for upon the Oath of such Child or Children, before such *Judge of Probate of Wills*, and for granting *Letters of Administration*, or by other Evidence to the Satisfaction of the *Judge*; and in Case of Refusal to Account upon Oath, such Child or Children, so refusing, shall be debarred of any Share in the Estate of the *Intestate*.

Division of Lands.

XIV. *And it is hereby Enacted*, That the Division of such *Lands* or *Tenements*, shall be made by *five* sufficient Freeholders upon Oath, or any *three* of them, to be, for that Purpose, appointed and sworn by the *Judge*. *Provided nevertheless*, that if all the Parties interested in such *Lands* or *Tenements*, being of lawful Age, shall, by *Deed*, agree to a Division, such Agreement, being acknowledged before the *Judge* by the Parties subscribing and settling the *Deed*, the said *Deed* being entered on Record in the *Probate Office*, shall be deemed a legal and valid Partition and Settlement of such Estate, as effectually to all Intents as if the same had been divided and settled by *Writ of Partition*, and be received and allowed in Evidence, on any Trial against the Parties so interested in the said *Lands* and *Tenements*.

Of Estates in Houses
and Lands which
cannot be divided
without Prejudice
to the whole.

XV. *Provided nevertheless*, That where any Estate in *Houses* and *Lands* cannot be divided among all the Children, without great Prejudice to the whole, the said *Judge* may, on Evidence of the same, order the whole unto the *Elders* Son, or, upon his Refusal, to any other of the Sons successively; He paying unto the other Children of the Deceased, their equal and proportionable Parts or Shares of the true Value of such *Houses* and *Lands*, upon a just Appraisement thereof, to be made by *three* sufficient Freeholders upon Oath, to be appointed and sworn as aforesaid, or giving good Security to pay the same in some convenient Time, as the said *Judge* shall limit, making reasonable Allowance in the mean Time, not exceeding *Six Pounds* by the *Hundred* in the Year. And if any of the Children happen to die, before he or she come of Age, or be married, the Portion of such Child deceased, shall be equally divided among the Survivors. And in case there be no Children, or any legal Representatives of them, then *One Moiety* of the *Personal Estate* shall be allotted to the Wife of the *Intestate* for ever, and *One Third* of the *Real Estate* for *Term of Life*. The Residue both of the *Real* and *Personal Estate*, equally to every of the next of Kin of the *Intestate* in equal Degree, and those who legally represent them. No Representatives to be admitted among Collaterals after Brother's and Sister's Children. And if there be no Wife, all shall be distributed among the Children, and if no Child, to the next of Kin to the

Of Portions of
Children dying un-
married or under
Age.

Font. 316.

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the *Intestate* in equal Degree, and their legal Representatives as
aforesaid, and in no other Manner whatsoever. And every one to
whom any Share shall be allotted, shall give Bond with Sureties
before the said *Judge of Probate*, if Debts afterwards be made to
appear, to refund and pay back to the Administrator, his or her
rateable Part thereof, and of the Administrators Charges.

1 *Salk.* 250. *Raym.*
496.

XVI. *And it is hereby Enacted*, That the Lands and Tenements
wherewith any Widow shall be so endowed as aforesaid, shall, after
the Decease of such Widow, be divided in like Manner as by this
Act is directed.

Widow's Dower,
after her Death to be
divided in like
Manner.

XVII. *Saving* to any Person aggrieved at any Order, Sentence,
or Decree made for the Settlement and Distribution of any *In-
testate* Estate, their Right of Appeal unto the Governor and Council:
Every Person so appealing, giving Security to prosecute the Ap-
peal with Effect. *Provided* that such Appeal be made within
Thirty Days after Sentence by the *Judge of Probate*.

Persons aggrieved
may appeal to the
Governor and
Council.

XVIII. *And be it further Enacted*, That all such Estate, *Real* or
Personal, as is not comprized in any *last Will* and *Testament*, or is
not plainly devised or given by the same, shall be distributed in the
same Manner as *Intestate Estates* are directed to be distributed by
this Act.

Estates not com-
prized in any last
Will, to be distri-
buted as *Intestate*
Estates.

XIX. *And be it further Enacted*, That in case that *Personal*
Assets shall be deficient for the Payment of any Debts or Legacies, and
it shall be found necessary by any Executor or Administrator to make
Sale of any Part of the *Real Estate* of the Deceased, for the Payment
of any Debts or Legacies, such Executor or Administrator shall apply
to the *General Assembly* to grant a Licence for the Sale of such Part
of such *Real Estate*, as may be most convenient for the Payment of
such Debts or Legacies, and before any Sale be made of any *Real*
Estate, the Executor or Administrator shall give *Thirty Days* pub-
lick Notice, by posting up Notifications in the most publick Places
in the Town where the deceased Person last dwelt, and in the *pub-
lick Prints*, if any such there be; and whoever will give most shall
have the Preference in such Sale. And in Case the Estate of such
Intestate shall be *Insolvent*, the Executor or Administrator shall
make like Application to the *General Assembly* for an *Inquiry*, and
for the Appointment of Commissioners to inquire into such *Insol-
vency*, and to examine and settle the Claims of all Creditors, and
the Amount of the Estate of such *Insolvent*, and to authorize such
Executor or Administrator to sell all the *Lands* and *Tenements* of

Where *Personal*
Assets are deficient,
Real Estate shall be
sold for Payment of
Debts and Lega-
cies.

In case of *Insolvent*
Estates, the *Gene-
ral Assembly* shall
appoint Commis-
sioners to settle the
Claims of Creditors,
and to sell *Real Es-
tate* to pay them.

* *Vid.* an Addition to this Act, 34. G. II. c. 8. whereby the Jurisdiction is given to the Go-
vernor and Council, instead of the *General Assembly*.

such *Insolvent*, and to divide the Produce of the whole of such Estate, in due Proportion to and among the Creditors.

For the Construction of Wills by the Common and Civil Law, *Vide* SWINBURN's Treatise of Testaments and last Wills; and for the Devise of Real Estates by the 29. Car. 2. c. 3. *Vide* Equity Cases abridged TIT. Wills and Testaments.

J. gages and Devisees are enabled to attest the Execution of Wills by *Brit. Stat. 5. Geo. 2. c. 6.*

C A P. XII.

An A C T to prevent the Sale of *Slop Cloathing*, and for punishing the Concealers or Harbourers of *Seamen* or *Marines* deserting from the *Royal Navy*.

Preamble.

¶ *WHEREAS* for the better carrying on the present War, it has been His Most Gracious Majesty's Royal Will and Pleasure, from Time to Time, to send large Squadrons of His Ships of War into North-America: And Whereas the Harbour of Halifax in this His Majesty's Province of NOVA-SCOTIA, from its Situation, great Convenience, and Safety for Capital Ships, hath always hitherto been, and probably during the War, will continue to be the Rendezvous of His Majesty's Fleet in that Part of His American Dominions. And Whereas many and great Inconveniences have arisen to the Service of the Royal Navy, by Persons enticing, assisting, harbouring and concealing Seamen deserting from His Majesty's Ships, and by buying the Slop Cloaths issued to Seamen on board His Majesty's Ships, by means whereof they become subject to Impositions, and are induced to sell their necessary Cloathing to procure Spirituous Liquors, whereby they are rendered unfit for Duty, become Diseased and Die for want of proper Apparel to defend them against the Inclemencies of the Weather, and by Means of such Practices, the Commanders of His Majesty's Ships of War have been under a Necessity of detaining such Seamen on board, not only to the great Prejudice of their Health by such Confinement and want of Exercise, but also to the Disadvantage of the Province, from the want of the Assistance and Labour of such Seamen. For Remedy whereof, Be it enacted by His Excellency the Governor, Council and Assembly, and by the Authority of the same it is hereby Enacted, That if any Person shall entice any Seaman or Marine to desert, or harbour, conceal, or assist any Deserter from any Ship of War, knowing him to be such, the Person so offending shall forfeit the Sum of Twenty Pounds, on Conviction by one or more credible Witnesses, before any three Justices of Peace, (*quorum unus*) for the Use of His Majesty's Government, to be levied by Distress, and for Want of such Distress, the Person so offending shall be committed to His Majesty's Gaol, there to remain without Bail or Mainprize for the Space of six Months, or till such Time as the said Fine shall be paid.

Persons enticing Seamen or Marines to desert, &c. forfeit £20. or to suffer Six Months Imprisonment. Conviction before three Justices.

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III. F any Perso longin to Sale an Seaman Justice of commit s liver him to whom

IV. B formation of the Per That one ferted or in some D fufed Adn Justice of issue his V or them, fconders, Concealing fier only, or Marine Dwelling- trance to rant as afor shall forfeit levied by V His Majesty

II. *And be it further Enacted*, That if any Person shall buy or receive as a Pledge, or exchange any *Slop Cloaths* from any *Seaman* or *Marine* belonging to any of His Majesty's *Ships of War*, upon Conviction thereof, or Confession, or by the Oath of one credible Witness, or if such *Cloaths* shall be found in the Possession of any Person, upon Complaint that they were bought from, or pledged or exchanged by such *Seamen* or *Marines*; in such Case the Party offending shall pay a Fine of *five Pounds, Forty Shillings* of which to the Informer, and *Three Pounds* to the Use of His Majesty's Government; and the *Cloaths* shall be taken from such Person and returned to such *Seaman* or *Marine*, and he to be utterly debarred from Recovering in any Action, the Purchase or Loan Money for the same. Any Person offending may be convicted of such Offence before any one or more of His Majesty's Justices of the Peace, who are hereby impowered to levy the Penalty by Distress, and in Default of Distress to commit the Offender to His Majesty's Gaol, there to remain without Bail or Mainprize for the Space of *two Months*, or till such Time as the Penalty shall be paid.

Penalty £5. buying, &c. any Slop Cloathing.

III. *Be it further Enacted*, That it shall and may be lawful for any Person, upon seeing or knowing of any *Seaman* or *Marine* belonging to any of His Majesty's *Ships of War*, selling or exposing to Sale any of his or their *Cloathing* or *Slops*, to apprehend such *Seaman* or *Marine*, and carry him or them immediately to some Justice of the Peace of the County, who is hereby impowered to commit such *Seaman* or *Marine* to His Majesty's Gaol, and to deliver him or them over to the Captain, or other Officer of the Ship to whom he or they may belong.

Any Person may apprehend Seamen or Marines selling their Cloaths.

IV. *Be it further Enacted by the Authority aforesaid*, That on Information made on Oath, before any of His Majesty's Justices of the Peace, by any of the Officers of His Majesty's *Ships of War*, That one or more of the *Seamen* in His Majesty's Service have deserted or absconded, who there is Reason to believe lie concealed in some Dwelling or Outhouse, where the said Officer has been refused Admittance; that then it shall and may be lawful for such Justice of the Peace, before whom such Complaint is made, to issue his Warrant to some one or more Constables empowering him or them, in the Day Time, to search for said Deserters or Absconders, in any Dwelling or Outhouse that shall be suspected for Concealing said Deserters or Absconders, accompanied by one Officer only, either *Lieutenant* or *Midshipman*, and no other *Seaman* or *Marine* with him, and in Case any Master or Mistress of any Dwelling-House or Outhouse in this Province, shall refuse Entrance to said Constable or Constables, so impowered by Warrant as aforesaid to search for said Deserters or Absconders, they shall forfeit the Sum of *Twenty Pounds*, upon Conviction, to be levied by Warrant of Distress under the Hand and Seal of two of His Majesty's Justices of the Peace, from off the Offenders Goods;

Any Justice may grant a Warrant to search for Deserters, where the Officer has been refused Admittance.

Constable to search in Company of one Officer only.

Persons refusing Admittance forfeit £20.

and

II. And

Any Justice may in the Night demand Admittance, and on Refusal, the Master of the House to forfeit £.20. or suffer six Months Imprisonment.

Deserters to be committed till delivered to their Officers.

Act to continue during the present War.

and for Want of such Distress, shall be committed to His Majesty's Gaol for *six Months*; and that it shall and may be lawful for any of His Majesty's Justices of the Peace, who are hereby required upon Information on Oath as aforesaid, in the Night Time in his own Person, attended with the Constables, accompanied by one Officer, either *Lieutenant* or *Midshipman*, and no other *Seaman* or *Marine* with him, to demand Entrance into any Dwelling House or Out-house in this Province, on Suspicion of Deserters or Absconders being concealed there, and the Master or Mistress refusing Entrance to such Justice of the Peace so demanding Entrance in the Night Time, shall forfeit the Sum of *Twenty Pounds*, to be levied as aforesaid upon Conviction; and for Want of such Distress, to be committed to His Majesty's Gaol for *six Months*; the aforesaid Sums to be for the Uses of this Government: And that the Person or Persons so apprehended supposed to be Deserters or Absconders from His Majesty's Service, shall be committed to His Majesty's Gaol, until Proof is made before one or more of His Majesty's Justices of the Peace, of his or their Desertion or Absconding, and then to be delivered up to such Officer or Officers of His Majesty's Navy who shall make Demand of said Deserter or Deserters. And in Case said Person or Persons so committed are not Deserters, Absconders, or shall not be in His Majesty's Service, then such Person or Persons to be discharged without Cost.

" V. *And be it further Enacted by the Authority aforesaid, That this Act shall be and continue in Force during the present War and no longer.*

VI. This Act to Commence and be in full Force from Seven Days after the Publication hereof,

This Act made perpetual by 34. Geo. 2. c. 1.

C A P. XIII.

An A C T relating to Treasons and Felonies.

Treason.

Eng. Stat. 25. Ed. 3.
Stat. 5. c. 2. 17 Eng.
Stat. 1. Mar. c. 1.
Assembling to alter
Laws, &c. Treason,
Kel. 75-77.

✠✠✠ *E it enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted,*
✠✠✠ *That if any Person or Persons shall compass or imagine the Death of the King, or shall levy War against Him or adhere to his Enemies, or give them Aid or Comfort, or shall forge or counterfeit the Kings Money, being Gold or Silver Coin of England or of Great Britain, or shall counterfeit the King's Great*

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6. Ann. c. 7.

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(d) Kel. 1,
murder, c. 6.

Seal or Privy Seal, or the *Seal* of this Province, and shall thereof be duly convicted, the Person or Persons so offending are hereby declared, and shall be adjudged to be *Traitors*, and shall suffer as in Cases of *High Treason*; (a) and that all Treasons declared by the Acts of Parliament of *England* or of *Great Britain*, shall be deemed and adjudged to be *Treason* within this His Majesty's Province, and none other (b), and that such Acts of Parliament as direct the Proceedings and Evidence against, and Trials of such *Traitors*, shall have their full Force and Effect, and be observed as the Rule in all Trials for *Treason* in this Province.

Brit. Stat. 7. Ann. c. 21.
Eng. Stat. 7. Will. 3. c. 3.
Witnesses in Treason, Kel. 49.

II. *And be it further Enacted*, That if any Person with Malice Prepenſe ſhall kill, or procure any other Persons to kill, or shall on Purpose and of Malice forethought, and by lying in wait, unlawfully cut out or disable the Tongue, put out an Eye, slit the Nose, cut off a Nose or Lip, or cut off or disable any Limb or Member of any Person, with Intention to kill or to maim or disfigure any such Person, the Persons so offending, their Counsellors, Aiders and Abettors, privy to the Offence, shall be *Felons* without Benefit of Clergy. *Provided* that no Attainder of such *Felony*, shall work Corruption of Blood, or Forfeiture of Dower, Lands or Goods of the Offender (c).

Murder & Maiming, Felony without Clergy.

Eng. Stat. 1. Ed. 6. c. 12. Sect. 10.

Eng. Stat. 5. Hen. 4. c. 5. & Eng. Stat. 22. & 23. Car. 2. c. 11.

III. *And be it further Enacted*, That every Person, who shall stab or thrust any Person that hath not then any Weapon drawn, or that hath not then first stricken the Party who shall so stab or thrust, so as the Persons, so stabbed or thrust, shall thereof die within the Space of *six Months*, altho' it cannot be proved that the same was done of Malice forethought, yet the Party so offending and being thereof convicted, shall be excluded from the Benefit of Clergy (d).

Stabbing, Felony without Clergy.
Eng. Stat. 1. Ja. 1. c. 8.

IV. *Provided*, That this Act shall not extend to any Persons, who shall kill any Person in his own Defence or by Misfortune, or in any other Manner than as aforesaid, nor shall extend to any Persons, who in keeping the Peace, shall chance to commit *Manslaughter*, so as the said *Manslaughter* be not committed wittingly and of Purpose, under pretext and colour of keeping the Peace; nor shall

Manslaughter by Misfortune &c.

(a) 1. Hawk. P. C. c. 17. Pa. 34.—46. 3. Inst. pa. 1.—19. Kel. 80. 1. Hale's Hist. P. C. and Judge Foster's Discourse on High Treason subjoined to his Reports, published in 1762, and Vide his Discourse on Accessories, in what Sense and Degree all are Principals in Treason, Sect. 1.—4.

(b) Treasons by Statutes subsequent to 25. Ed. 3. c. 2. Vide 1. Hawk. P. C. c. 17. Statutes corresponding, &c. with the Pretender, Vide Eng. Stat. 13. & 14. Will. 3. c. 3. Sect. 3. 6. Ann. c. 7. 17. Geo. 2. c. 39.

(c) Vide State Trials, 6. Vol. pag. 212. Woodbourne and Coke's Case.

(d) Kel. 120. 1. Hale's Hist. P. C. 1. Hawk. P. C. c. 30. Judge Foster's Disc. on Homicide, c. 6. Of the Statute of Stabbing.

extend to any Person who, in chastising or correcting his Child or Servant, shall besides his Purpose, chance to commit *Manſlaughter* (c).

Murder of Bastard Children.
Felony without Clergy.

Eng. Stat. 21. Jn. 1.
c. 27. continued by
Eng. Stat. Car. 1.
c. 4. till continued or
discontinued by Par-
liament.

Buggery.
Felony without Clergy.

Eng. Stat. 25 Hen. 8.
c. 6. revived &
made perpetual by
Eng. Stat. 5. Eliz.
c. 17.

Affault with Intent
to commit Buggery,
Pillory, &c.

Rape.
Felony without Clergy.
Eng. Stat. Westm.
2. 13. Ed. 1. c. 34.

Complaint in Ten Days.
By Eng. Stat. West.
1. 3. Ed. 1. c. 13.
Appeals of Rape were
limited to 40 Days.
Fide 1. Hale's Hist.
P. C. 632. 633.

V. *And be it further Enacted*, That if any Woman be delivered of any Issue of her Body, Male or Female, which being born alive, should by the Laws of the Realm of *England* be a Bastard, and that she endeavour privately, either by Drowning or secret Burying thereof, or any other Way, either by herself, or the procuring of others, so to conceal the Death thereof, as that it may not come to light whether it were born alive or not, but be concealed, the Mother so offending shall suffer Death as in Case of *Murder*, except such Mother can make Proof by one Witness, that the Child whose Death was by her so intended to be concealed, was born dead (f).

VI. *And be it further enacted*, That the detestable Sin of *Buggery* committed with Mankind or Beast, shall be adjudged *Felony*, and such Process therein be used as in Cases of *Felony* at *Common Law*, and the Offender or Offenders being convicted by Verdict, Confession or Outlawry, shall suffer the Pains of Death, and Loss of their Goods, Lands and Tenements, as *Felons*, and no Person guilty of such Offence shall be admitted to his Clergy: And Justices of the Peace shall have Power to inquire of the said Offence as in other *Felonies*. And if any Person or Persons, shall make an Assault, with an Intent to commit the Sin of *Buggery*, such Offender or offenders, shall, on due Conviction thereof, be adjudged to stand in the Pillory, and may, for further Punishment, be fined, imprisoned, or be bound in Sureties for his or their good Behaviour, at the Discretion of the Court. (g)

VII. *And be it further Enacted*, That if any Person or Persons shall, by Force, and against the Consent of any Woman, or Infant above the Age of *Twelve Years*, have Carnal Knowledge of her Body, every such Offender or Offenders shall, on due Conviction of such Ravishment, suffer as a *Felon* without Benefit of Clergy. *Provided always*, that if Complaint shall not be made of a Ravishment within *ten Days* afterwards, before one of His Majesty's Justices of the Peace or other Magistrate, that then such Fact shall be adjudged to have been committed by and with the Consent of such Woman or Infant (b).

(c) Kel. 28. 64. 65. John Grey's Case. Dalton 351. Keilway's Reports 136. a

(f) 2. Hale's Hist. P. C. pn. 288. 289. 2. Hawk. P. C. c. 46. Sect. 43. Kel. 32. Ann Davis's Case.

(g) 3. Inst. 58. 18. Co. 36. & 37. 1 Hawk. P. C. c. 4. 1 Hale's Hist. P. C. 628. 669. 670. Lord Audley's Case State Trials.

(b) 1. Hawk. P. C. c. 41. 1. Hale's Hist. P. C. 626—637.

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VIII. *And be it further Enacted*, That if any Person shall unlawfully have Carnal Knowledge of any Female Child under the Age of Twelve Years, tho' with her Consent, every such unlawful and Carnal Knowledge shall be *Felony*, and the Offender being thereof duly convicted, shall suffer as a *Felon*, without Benefit of Clergy. And every violent Assault and Battery committed on the Body of such Woman or Infant, with Intent to ravish, shall be punished by adjudging the Offender or Offenders, upon due Conviction thereof, to stand in the Pillory, and the Judge or Judges of the Court, wherein he shall be so convicted, may for further Punishment, Fine and Imprison, and require Sureties for the good Behaviour, at his or their Discretion (i).

Rape on Infants ;
Felony without
Clergy.
*Eng. Stat. 18 Eliz.
c. 7. Sect. 4.*

Assault with Intent
to ravish, Pillory,
&c.

IX. *And be it further Enacted*, That if any Person or Persons shall by Night break open and enter any Dwelling House, Shop or Warehouse, or any Vessel lying so near the Land that it be adjudged within the County, with an Intent to commit any *Felony*, whether such felonious Intent be executed or not (k).

Burglary.
*Eng. Stat. 23 Hen. 8.
c. 1. 5. 2d. 6. c. 9.
18 Eliz. c. 7. Sect. 1.*

X. Or shall rob any Dwelling House in the Day Time, any Person being therein, or break any Dwelling House, Shop or Warehouse thereunto belonging, or therewith used, in the Day Time, and feloniously take away any Money or Goods of the Value of Five Shillings therein being, altho' no Person shall be within such Dwelling House, Shop, or Warehouse, or shall rob any other, or feloniously take away any Goods in any Dwelling House, the Owner or any other Person, being therein and put in Fear.

Robbery by Day.
*Eng. Stat. 3 Will.
& Ma. c. 9. Sect. 1.*

XI. Or if any Person or Persons shall by Night or by Day, rob or by Violence take Money, or Goods, from any Person putting him in Fear, in any Highways, or in any Streets or Lanes of a Town.

Robbery from the
Person in High-
ways, &c. by Night
or by Day.
*Eng. Stat. 3. Will.
& Ma. c. 9. Sect. 1.*

XII. Or shall Feloniously take Money or Goods from the Person of any other, privily without his Knowledge.

Stealing privily.
*Eng. Stat. 8 Eliz.
c. 4.
1 Hawk. P. C. c. 35.
Aiders & Abettors.
Felony without
Clergy.*

XIII. Each and every of the Offenders aforesaid, their Aiders and Abettors, shall, upon due Conviction, suffer as *Felons*, without Benefit of Clergy.

XIV. *And be it further Enacted*, That if any Person or Persons shall steal, or take by Robbery, any Bills of Exchange, Bonds, Warrants, Bills, or Promissory Notes for the Payment of Money, being the Property of any other Person, notwithstanding any of

Stealing Bills of
Exchange, &c.
*Eng. Stat. 2. Geo. 2.
c. 25.*

(i) 3. Inst. c. 11. 1. Hale's Hist. P. C. 630. 631. 634. & 635. Cro. Car. 338. Mar-
Page's Case. 1. Hawk. P. C. c. 41. Sect. 4. 5.

(k) 1. Hawk. P. C. c. 38. 1. Hale's Hist. P. C. 547. &c. 3. Inst. c. 14. Kel. 30. 32,
53, 67. in *fraudem legis* by false Pretences. Kel. 42-47, 62, 81-85.

the said Particulars are termed in Law a *chose in Action*, it shall be deemed *Felony* of the same Nature, and with or without the Benefit of the Clergy or of this Act, in the same Manner as it would have been if the Offender had stolen or taken by Robbery, any other Goods of the like Value with the Money due on such Bills of Exchange, Bonds, Warrants, Bills, or Notes, or secured thereby, and remaining unsatisfied, and shall suffer such Punishment as if he, she or they, had stolen other Goods of the like Value.

Not to work Corruption of Blood &c.

XV. *Provided*, That no Attainder for any such Offence, so made *Felony*, shall work any Corruption of Blood, Loss of Dower, or Disinheritance of Heirs.

Receivers of Stolen Goods, Accessaries. *Eng. Stat. 3 Will. & Ma. c. 9. Sect. 4.*
• *Vide Note at the End of this Act.*

Punishable as for Misdemeanor, though Principal be not convicted. *Eng. Stat. 1. Ann. Stat. 2. c. 9. Sect. 2.*

Robbing Lodgings. *Eng. Stat. 3 Will. & Ma. c. 9. Sect. 5.*

Servants imbeziling Master's Goods. *Eng. Stat. 21 Hen. 8. c. 7.*

XVI. *And be it further Enacted*, That if any Person or Persons shall buy or receive any Goods that shall be stolen, knowing the same to be stolen, he, she, or they, shall be deemed Accessaries to the *Felony* after the Fact, and that it shall be lawful to prosecute and punish Persons buying or receiving stolen Goods, knowing the same to be stolen, or that shall be Accessary to such *Felony* before or after the Fact, as for a *Misdemeanor*, to be punished by Fine and Imprisonment, altho' the principal *Felon* be not before convicted of the said *Felony*, which shall exempt the Offender from being punished as Accessary, if the Principal shall be after convicted*.

XVII. *And be it further Enacted*, That if any Person or Persons shall take away with an Intent to steal, imbezil, or purloin, any Goods, Chattels, or Furniture, which by Agreement they are to use, or shall be let to them to use in his, her, or their Lodging, such taking, imbeziling, or purloining, shall be adjudged to be *Larceny* and *Felony*(1).

XVIII. *And be it further Enacted*, That if any Servant or Servants shall go away with the Caskets, Jewels, Money, Goods or Chattels, delivered to his, her or their Keeping, by his, her or their Master or Mistress, with Intent to steal the same, and defraud his, her or their Master or Mistress thereof, contrary to the Trust and Confidence in them reposed, or being in Service, without Assent or Commandment of his, her or their Master or Mistress, shall imbezil or convert the same to his, or her Use, with Purpose to steal the same, being of the Value of *Forty Shillings* or above, every such Offender or Offenders shall, upon due Conviction, suffer Death as in Cases of *Felony*, without Benefit of Clergy(m).

(1) 1. Hawk. P. C. c. 33. Sect. 10. Kel. 24. 81. Not *Felony* at Common Law, because no *Trespass*, and without *Trespass* there can be no *Felony*.

(m) 1. Hale's Hist. P. C. c. 63. pa. 666—669. 1. Hawk. P. C. c. 33. Sect. 11—17. 3. Inst. c. 44.

XIX. *Provided*

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(n) 1. Hawk. Judge Foster's R. Car. 376. Holm

XIX. *Provided* that any Apprentice or Apprentices, within the Age of Fifteen Years, shall be intituled to the Benefit of Clergy, for the first Offence.

Not to extend to Apprentices.
Eng. Stat. 12 An.
Stat. 1. c. 7. Sect. 2.

XX. *And be it further Enacted*, That if any Person or Persons shall wilfully and maliciously burn, or cause to be burned, any Dwelling House, Barn, Outhouse, or Warehouse, of another, or any Publick Building, or any Hovel, Cock, Mow, Rick, or Stack of Corn, Straw, Hay, or Wood, of another, all and every such Person or Persons so offending, and their Aiders, Abettors, and Counsellors, shall, upon due Conviction, suffer as Felons, and be excluded from the Benefit of Clergy(n).

Houseburning.
Eng. Stat. 25 Hen. 8.
c. 3.

XXI. *And be it further Enacted*, That whosoever shall maliciously shoot at any Person or Persons, in any Dwelling House or other Place, or shall knowingly send any Letter without any Name, or signed with a fictitious Name, demanding from any Person or Persons, Money or other valuable Thing, such Offender or Offenders, being duly convicted thereof, shall suffer as Felons, without Benefit of Clergy.

Anonymous Letters
Brit. Stat. 9 Geo. 1
c. 22. Sect. 1.

XXII. *And be it further Enacted*, That whosoever shall feloniously take and carry away any Money or Goods, in any other manner than is herein before declared and provided for, or shall imbezil any of his Majesty's Stores, or the Utensils, Furniture or Cloathing, in any Storehouse or Hospital of His Majesty, if such Offender or Offenders shall be found guilty of such felonious taking or carrying away of such Money, or Goods, or of imbezilling any of His Majesty's Stores, or the Utensils, Furniture, or Cloathing in any Storehouse or Hospital of His Majesty, as aforesaid, to the Value of Twenty Shillings or more; Every such Offence shall be Larceny and Felony; and if the Value shall be found by Verdict on Trial to be less than Twenty Shillings, then such Offence shall be punishable as Petit Larceny, by such publick Whipping as the Court, before whom such Offender shall be convicted, shall direct, and it shall and may be lawful for such Court to order the Offender to make full Restitution, and in Default thereof to commit such Offender to the House of Correction, there to be put to hard Labour, for a Term not exceeding Three Months, as the Judges, in their Discretion, shall think fit.

Stealing in any other Manner.
Brit. Stat. 4. Geo. 1.
c. 11. Sect. 1.
or imbezilling the King's Stores,

Larceny & Felony.

XXIII. *And be it further Enacted*, That all Monies, Goods, Chattels, Merchandizes, or Stores, found in Possession of any Burglar, Housebreaker, Robber, Thief, or Purloiner, shall be delivered by the Justice of Peace who shall take the Examination of

Restitution of Stolen Goods.
Eng. Stat. 21. Hen. 8.
c. 11. 2. Hawk.
P. C. c. 23. Sect.
49—58.

(*) 1. Hawk. P. C. c. 39. 1. Hale's Hist. P. C. c. 49. pp. 566. et seq. 3. Inst. c. 15. Judge Foster's Reports, Elizabeth's Harriot's Case at Aylesbury Lent Assizes, 1753. Cro. Car. 376. Holmes's Case.

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such Offender, into the Custody of the Provost Marshal or his Deputy, or Constable of the Town where the Offence shall be committed, who shall be answerable for the same until the Offender be convicted; and the Judge or Judges of the Court, wherein such Offender shall be convicted, shall order the said Money, Goods or Stores, to be restored to the lawful Owners thereof (o); and where no Owner shall appear to claim the same, they shall be adjudged to be forfeited.

Where no Owner appears, Goods to be forfeited.

To be given by Jury to Prosecutor, tho' Evidence not sufficient to convict Offender.

XXIV. And in Cases where the Evidence shall not be sufficient to convict of a *felonious* Intent, and the Jury shall declare that the Property of such Money, Goods, or Stores, is in the Prosecutor, it shall and may be lawful for the Court to order such Money, Goods, or Stores, to be delivered to such Prosecutor.

Not to debar the Party of his Action.

XXV. *Provided nevertbeless*, That such Delivery shall not debar the Party so acquitted, or any other Person who may claim the same, from his or her Action for the Detainer of such Money, Goods or Stores, so delivered to the Prosecutor.

Accessaries.
Eng. Stat. 1. An.
Stat. 2. c. 9. Sect. 1.

XXVI. *And be it further Enacted*, That notwithstanding the Allowance of Clergy, and burning in the Hand of any *Principal* Offender, the *Accessaries* to such Offender shall be arraigned and tried in the same manner, as if such Clergy had not been allowed.

Clergy allowed but once.
Offenders to be burnt in the Hand,
Eng. Stat. 4. Hen. 7.
c. 13.

XXVII. *And be it further Enacted*, That every Person which once hath been admitted to the Benefit of his Clergy, being afterwards arraigned, shall not be admitted to the Benefit of his Clergy; and that every Person convicted for *Manslaughter*, shall be marked with an M, upon the Brawn of the left Thumb, and for any other *Felony*, the Person convicted shall be marked with a T, in the same Place: These Marks shall be made by the Gaoler in open Court. And if any Person convicted of any *Felony*, for which he ought to have the Benefit of his Clergy, shall pray to have the Benefit of this Act, he shall not be required to read, but without any reading shall be allowed to be, and punished as a Clerk Convicted, which shall be as effectual and as advantageous to him as if he had read as a Clerk.

Eng. Stat. 5. Ann.
c. 6. Sect. 4.

And discharged out of Prison.

XXVIII. And after Allowance of such Clergy and Burning in the Hand, such Person shall be enlarged and delivered out of Prison, by the *Judge* or *Judges* of the Court before whom such Clergy shall be granted: *Saving* that such *Judge* or *Judges* may, for the further Correction of such Persons to whom Clergy shall be allowed, keep them in Prison, or send them to the House of Correction, for such convenient Time as the said *Judge* or *Judges* in their Discretions,

Eng. Stat. 18 Eliz.
c. 7. Sect. 2, 3.

(o) Kel. 35, 47 & 48. Restitution shall be made, tho' the Goods were sold in Market Overt. 2 Inst. 714. Accord. Restitution shall be made of such Goods only as are comprized in the Indictment. 2 Bac. Ab. 461. 2 Hawk. P. C. c. 23. Sect. 55, 56, 57.

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shall think fit, so as the same do not exceed *One Year's Imprisonment*, or to punish them by publick Whipping.

XXIX. And that where a Man, convicted of any *Felony*, may demand the Benefit of his Clergy, a Woman convicted for the like Offence, upon her Prayer to have the Benefit of this Act, Judgment of Death shall not be given against her upon such Conviction, or Execution awarded upon any Outlawry for such Offence, but such Woman shall suffer the same Punishment as a Man that has the Benefit of his Clergy allowed him in the like Case, (*that is to say*) shall be burned in the Hand by the Gaoler in open Court, and may for further punishment, be kept in Prison, or sent to the House of Correction, for such Time as the Judges shall think fit, so as the same do not exceed one Year, or be ordered to be publickly whipped, as the Judge or Judges, before whom such Woman is convicted, shall, from the Quality of the Offence, think meet.

Woman to be punished in the same Manner as a Man.

Eng. Stat. 3. & 4. Will. & Ma. c. 9. Sect. 6, 7.

XXX. And the Clerk of the Court or *Affizes* where such Man or Woman shall be convicted, shall, at the Request of any in His Majesty's Behalf, certify a *Transcript* containing the Tenor of every *Indictment* and *Conviction* of such Man or Woman, of his having the Benefit of the Clergy, or her having the Benefit of this Act, and the Addition of every such Person, and the Certainty of the *Felony* and *Conviction*, to the Judge or Judges of the Court or *Affizes* where such Man or Woman shall be indicted; which Certificate, being produced in Court, shall be a sufficient Proof that such Man hath before had the Benefit of his Clergy, and that such Woman hath had the Benefit of this Act, in the same Manner as if the Record had been produced.

Clerk to certify a Transcript, &c. of Allowance of Clergy.

XXXI. And if any Person or Persons indicted of any Offence, for which, by Virtue of this Act, they are excluded from the Benefit of Clergy, or of this Act, shall, if they stand mute or will not answer directly to the *Felony*, or shall challenge peremptorily above *Twenty* of the Jury, or shall be outlawed thereupon, be ousted of the Benefit of the Clergy or of this Act, and Judgment shall be pronounced and Execution awarded, as if such Person or Persons had been convicted of such Offence by Verdict or Confession.

Prisoner standing mute, &c. ousted of Clergy.

Eng. Stat. 3 & 4 Will. & Ma. c. 9. Sect. 2. By Pro. Law, &c. Geo. 2. c. 9. This peremptory Challenge shall be overruled.

XXXII. And be it further Enacted, That in all Cases where the Benefit of Clergy or of this Act shall be allowed, if the Prisoner shall not, upon his Arraignment, answer directly according to Law, or shall willfully stand mute, or shall peremptorily challenge above *Twenty* Jurors, or if any Person be outlawed on any Indictment for such *Felony*, such Person or Persons shall be proceeded against by the Court, in the same Manner as if he, she, or they had been convicted by Confession or Verdict.

Where Clergy is allowed, Prisoner standing mute, &c. to be proceeded against as if convicted by Verdict.

XXXIII. *Provided nevertheless*, That no Man who hath had the Benefit of the Clergy allowed him, nor any Woman who hath had the

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The Benefit of this Act not to be allowed more than once.

Eng. Stat. 4 & 5, Will. & Mar. c. 24, Sect. 13.

Persons allowed Clergy shall answer to other Felonies excluded Clergy. Eng. Stat. 18, Eliz. c. 7, Sect. 5.

Witnesses for Prisoners shall be sworn, & punishable for Perjury. Eng. Stat. 1. Ann. Stat. 2. c. 9, Sect. 3.

Indictments, &c. to be according to the Practice of England.

Former Convictions confirmed.

Saving for Judgments depending.

the Benefit of this Act, shall have the Benefit of Clergy or of this Act, for any *Felony* committed since his or her having had the Benefit of Clergy or of this Act as aforesaid, and that no Person shall be allowed the Benefit of Clergy or of this Act; more than once, but shall, for any *Felony* by him or her committed after being allowed the Benefit thereof, be utterly debarred from having the Benefit of the same again.

XXXIV. *Provided* also, That if any Man admitted to his Clergy, or any Woman admitted to the Benefit of this Act, shall, before such his or her Admission, have committed any Offence, whereupon Clergy is not allowable by this Act, and not being thereof indicted and acquitted, convicted, or attainted, or pardoned, shall and may be indicted or appealed for the same, and put to answer as if no such Admission to the Benefit of Clergy or of this Act had been.

XXXV. *And be it further Enacted*, That every Person who shall be produced or appear as a Witness on the Behalf of the Prisoner upon any Trial for *Murder* or *Felony*, before he or she be admitted to give Evidence, shall first take an Oath to depose the Truth, in such Manner as the Witnesses for the King are, by Law, obliged to do; and if any Witness be convicted of willful Perjury in such Evidence, he shall suffer all the Penalties, Forfeitures and Disabilities, which, by Law, may be inflicted on Persons convicted of willful Perjury.

XXXVI. *And be it further Enacted*, That all Indictments, Processes, Pleadings, and Trials, and the Rules of Evidence upon any Trials for any *Felonies* or *Misdemeanors*, either by the Common Law of England, or by Virtue of this Act, shall be according to the Usage, Practice and Laws of England.

XXXVII. And that all Convictions, Attainders, Judgments, and Executions, for any *Felonies* or *Misdemeanors*, before the making of this Act, shall be good and valid in Law, and the same are hereby ratified and confirmed.

XXXVIII. *Saving* to all and every Person and Persons, all such Advantages in Law, upon any Judgment that may be depending in any Court of Record, at the Time of making this Act, in the same Manner as if this Act had not been made.

* A Receiver of Stolen Goods may be prosecuted as for a Misdemeanor, only where the Principal is not in Custody and amenable for the Felony. Judge Foster's 3d Disc. Of Accompli. Subjoined to his Reports. c. 3, Sect. 6.

Vide an Addition to this Act, 34. Geo. 2. c. 9.

Polygamy declared to be Felony by Prov. Act; 32. Geo. 2. c. 17.

Theft as Fires Felony by Prov. Act; 2. Geo. 3. c. 4.

Mutiny and Desertion by Militia Soldiers in Time of War, punishable with Death by Prov. Act, 2. Geo. 3. c. 6.

Taking Rewards to help Persons to stolen Goods, is, by Brit. Stat. 4. Geo. 1. c. 11. declared to be Felony, unless they cause the Felon to be brought to Trial.—This Act is extended to His Majesty's Dominions in America.

CAP. XIV.

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C A P. XIV.

An Act for preventing *Trespasses*.

*Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, in order to regulate Fences, and to prevent Damages being done to the Proprietors of inclosed Lands by unruly Cattle, That all Fences belonging to any inclosed Lands shall be built or made with Stone, Pickets, Boards, or Posts and Rails, or Log Fence, unless the Lands are bounded by Ponds, unfordable Rivers or the Sea; and such Fences shall be, at least, Four Feet and an half high: And if any Damage be done by breaking such Inclosures, and destroying any of the Product thereof, by Horses, Sheep, Hogs, and Neat Cattle, if such Inclosures shall, at the Time of the Damage, be inclosed by a good and sufficient Fence, agreeable to this Law in the Judgment of the Fence Viewer, who is hereby appointed to view the same, the Owners of such Trespassing Cattle, shall pay to the Party injured, the Value of all such Damages, to be ascertained, on the Appraisement thereof, by Three credible Persons, living in the Neighbourhood, being first sworn before One of His Majesty's Justices of the Peace of the County where such Lands lie, truly to value the same; and in Case the Owner of the said Cattle or Hogs, shall refuse to pay the Value of such Appraisement, upon Notice thereof given him, the injured Party may have and maintain his Action therefor, before any One or more of the said Justices, or before the *Inferior Court of Common Pleas*, according to the Value of such Damage.*

Fences to be made of Stone, &c.

Owners of Trespassing Cattle to pay Damages.

*II. And whereas the Owners and Proprietors of Fields, lying and being adjoining to other inclosed Fields, do neglect to fence in their proportionable Part of such Fields, Be it Enacted by the Authority aforesaid, That the Proprietor of any Field, adjoining to another inclosed or improved, shall build up and maintain his Part or Proportion of Fencing, with a good and sufficient Fence of Four Feet and an half high, on that Part of such Land as is adjoining to his own; and in Case he neglects so to do within the Space of Ten Days after Notice given him, it may and shall be lawful, and any One of the Fence Viewers, upon Application being made to him, in such Case is hereby impowered forthwith to cause such deficient Fence to be raised or made, or otherways to repair any Fence already made, if, in his Judgment, the same is insufficient: and the Person or Persons that of Right ought to build and maintain the same, shall pay double the Costs and Charges expended for the doing thereof; and in Case of Refusal, such Fence Viewers may recover the same by Action on the Case, according to the Value in Manner aforesaid. *Provided always*, that no Fence Viewers shall be al-*

Proprietors of Fields to fence their Proportion, or on their Neglect,

the Fence Viewer to make or repair such Fence; and the Proprietor to pay double the Cost.

lowed more than Three Shillings *per* Day in his Account, for his own Trouble and Time expended therein. And if any Fence Viewer, when notified, shall neglect his Duty herein, he shall forfeit Forty Shillings for every Offence.

III. *And be it further Enacted*, That no Swine shall be permitted to go at large within the Streets, Lanes or Suburbs of *Halifax*: And it shall and may be lawful for the Hogleaves, so often as they shall find any Swine going at large within the Streets, Lanes and Suburbs of the said Town, to impound them, and as soon as may be, cause the same to be publickly cried, for which he shall be paid two Shillings and six Pence per Head, and three Pence per Day for supporting each Swine, whilst impounded; and if the Owner thereof doth not appear, or refuses, within three Days, to claim the said Swine, and pay the Charges, that then the Hogleaves are hereby authorised to sell such Swine at publick Auction, and after deducting all Charges, the Overplus shall be paid to the Owner, when demanded.

IV. *And be it further Enacted*, That the Surveyors of Highways, by this Act appointed, shall have the Care and Supervisal of all the Streets, Lanes, and Highways of the Town and Suburbs of *Halifax*, and are hereby empowered to prevent the same from being obstructed or incumbered, and to cause the same to be mended, at the Charge of the Proprietors of Land bordering thereon: And they are hereby required to present all Nuisances in the said Streets, Lanes, and Highways, within the Limits above mentioned, at the next *General Quarter Sessions* of the Peace, which s hereby empowered to proceed against such Offences according to the Laws of *England* in such Cases made and provided.

V. *And be it further Enacted*, That the Committee of the *General Assembly*, to be appointed for that End, shall and are hereby empowered to nominate Four suitable Overseers of the Poor, Two Persons for Clerks of the Market, Two Persons for Fence Viewers, Two Persons for Hogleaves, and Four Persons for Surveyors of Highways, to serve for the Town of *Halifax*, till the *Sessions* of the *Supream Court*, *Court of Assize* and *General Gaol Delivery*, to be held in *October* next, at which Time the *Grand Jury* of said Court are hereby empowered to choose other meet Persons to serve in their room, and so from Year to Year; and the said Persons, so nominated or chosen, shall be sworn to the faithful Discharge of the Duty of their several Offices; and the Person or Persons who shall refuse to serve in the said Offices, to which they are respectively nominated or chosen as aforesaid, shall forfeit and pay the Sum of *Forty Shillings* each, and the said Committee or *Grand Jury* are hereby authorised to nominate or choose other Persons to serve in their stead.

vide Additions to this Act, 33 Geo. 2. c. 12. ad. Sess. 1 Geo. 3. c. 10. & 15.

CAP. XV.

Hogleaves to take up Swine going about the Streets, &c. at *Halifax*, and impound and cry them.

To be sold if not owned in 3 Days.

Surveyors of Highways to have the Care of the Streets, &c. at *Halifax*.

Town Officers to be appointed by a Committee of the General Assembly, to serve till next *Supream Court*, when the *Grand Jury* shall appoint others, and so on annually.

Persons refusing to serve, forfeit 40s.

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C A P. XV.

An Act for making *Lands and Tenements* liable to the Payment of *Debts*.

BE it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the Publication hereof, when any Person or Persons shall recover Judgment in any of His Majesty's Courts of Record within this Province, for any Sum or Sums of Money, or for Costs of Suit, and the Person or Persons against whom Judgment shall be recovered, shall be either unwilling or unable to satisfy such Judgment by Money or otherwise, or sufficient *Personal Estate*, whereon to levy Execution on such Judgment, shall not be found, then and in such Case, Execution shall as may be extended on the *Real Estate* of such Debtor or Debtors; and the Provost Marshal or his Deputy, upon Request to either of them made by the Creditor or Creditors, his or their Attorney or Agent, shall give Notice in Writing to the Debtor or Debtors, or in their Absence to their Attorney or Agent, to nominate an Appraiser, and the Creditor or Creditors shall have like Notice to nominate another on their behalf, and the said Provost Marshal or his Deputy shall name a Third, being all discreet indifferent Men and Freeholders; and in Case such Debtor or Creditor or either of their Agents or Attornies shall, for the Space of three Days after such Notice, refuse or neglect to nominate an Appraiser on their respective behalfs, or in Case such Debtor or Debtors, shall be absent from the Province, and have no known Attorney or Agent, then and in such Case the Provost Marshal or his Deputy shall and may nominate an Appraiser for such Debtor or Creditor respectively: And the Provost Marshal or his Deputy shall cause the said Appraisers, so nominated, to be sworn before one of His Majesty's Justices of the Peace, faithfully and impartially to the best of their Skill and Knowledge, to appraise such *Real Estate* as shall be shewn to them. And the said Appraisers with the Provost Marshal or his Deputy shall forthwith repair to the Lands or Tenements of such Debtor, and view and examine the State and Condition thereof, and if upon such View and Examination, the said Appraisers, or any two of them, shall judge that the annual Rent of such Lands or Tenements, will be sufficient to pay such Debt, Costs, and lawful Interest for the same, together with the necessary Repairs, within Two Years, then the Provost Marshal or his Deputy shall extend the said Execution on the Rents only, and cause the Person or Persons in Possession, whether Debtor or Debtors, or their Tenant or Tenants, to attorn and become Tenant to such Creditor or Creditors, and shall pay Rent Quarterly to such Creditor

Execution, upon Judgements, to be levied on Personal Estate, and if insufficient then on Real Estate of the Debtor.

by Appraisers to be appointed by the Creditor, Debtor, and Provost Marshal,

and sworn to appraise such Real Estate as shall be shewn them.

Execution to extend on Rents only. (if sufficient to pay Debt and Costs, &c.)

Rents to be paid to the Creditor

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ditor or Creditors, who may distrain for the same, if in Arrear, according to the Laws of *Great Britain*; and the Person in Possession, refusing or neglecting to pay such Rent, when due, may be removed from such Lands or Tenements by the Provost Marshal or his Deputy. And the Creditor or Creditors shall and may hold over and receive the Rents of such Lands or Tenements, until such Judgment, Cost and Interest, shall be fully satisfied and paid.

till satisfied.

If Rents are not sufficient,

Execution to be
levied on Part of
the Real Estate if
convenient, if not,
then on the whole.

and Possession thereof delivered to the Creditor.

II. *And be it further Enacted*, That if upon such View and Examination as aforesaid, the said Appraisers or the major Part of them, shall be of Opinion that the yearly Rents of the Lands or Tenements of such Debtor or Debtors are not sufficient to satisfy such Debt with Cost and Interest, together with the Charge of needful Repairs within the Space of Two Years, then the said Execution shall and may be levied on Part of such Estate, if in the Judgment of the said Three Appraisers it can conveniently be done; but if not, then on the Whole of the Lands or Tenements of the said Debtor or Debtors. And the Provost Marshal or his Deputy shall immediately deliver Seizin and Possession thereof to such Creditor or Creditors, and cause the Person or Persons in Possession or Improvement thereof, to attorn and become Tenants to such Creditor or Creditors in Manner aforesaid, and pay their Rent to him or them accordingly. And such Person or Persons, so in Possession, shall be subject to be removed, and be under such Rules and Regulations as are herein before prescribed.

Appraisers to make and subscribe an Appraisement, to be annexed to the Execution, and returned to the Clerk of the Court.

Provest Marshal to
execute a Deed of
the Premises to the
Creditor.

Subject to an Equity of Redemption.

Clerk neglecting
his Duty, forfeits
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Debtors may re-
deem their Lands,
&c. in two Years.

III. *And be it further Enacted*, That in all Cases where an Appraisement as herein before directed, shall be made, whether the same be of Lands or Tenements, in Part or in Whole, or of the Rents thereof only; the Appraisers shall make and subscribe a true and impartial Appraisement thereof, which said Appraisement being annexed to the Execution, and duly returned by the Provost Marshal or his Deputy, and filed and recorded therewith by the Clerk of the Court from whence the same issued, in a Book to be kept by him for that Purpose, and the Provost Marshal or other Officer serving such Execution, shall immediately execute a Deed of Sale of such Lands or Tenements, to such Creditor or Creditors, in Consideration of the Value found by such Appraisers, to be therein mentioned, who by virtue thereof, or of said Return, shall make a good Title to such Creditor or Creditors, his or their Heirs or Assigns in *Fee*. *Subject nevertheless* to an Equity of Redemption, as is herein after prescribed; and any Clerk refusing or neglecting his Duty herein, shall forfeit the Sum of *Five Pounds*, to be recovered by Action of Debt by the Party grieved.

IV. *Provided always, and it is hereby further Enacted, That it shall and may be lawful for any Debtor or Debtors, whose Estate is taken in Execution, or their Heirs, Executors, Administrators,*

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V. And found by the Cost, the of Thirty not sooner than the Last Auction by impowered purchasing Deed being the Law; but the Equity in Favour of administrators Sale, the original Debt, or their Attorneys to the Hands of Administrators, relating to such conducting for the same do sell then the Case, shall be for the Relief

VI. *And* Debtor upon
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or Assigns, at any Time, within the Space of Two Years next following the Levying such Execution thereon, to redeem his or their Lands or Tenements so extended, and may have his Action of Account against the Creditor or Creditors or their Assigns, in Manner as is provided by Law: And upon paying the original Debt with the Cost and Interest, and the Charges of such necessary Repairs, as the Creditor or Creditors or their Assigns have been obliged to expend, *Provided* that they do not exceed One half of the Rents, which the Creditor or Assigns, if he or they see cause, are hereby allowed to expend and lay out, and as much more as the Debtor shall consent to, (who is hereby obliged to accept the same) such Creditor or Creditors or their Assigns shall immediately surrender all such Estate to the Debtor or Debtors, their Heirs, Executors, Administrators, or Assigns, and deliver up quiet and peaceable Possession thereof.

and bring Action of Account against the Creditor for the Rents.

V. *And be it further Enacted*, That when any Estate shall be found by the Appraisers, to be of greater Value than the Debt and Cost, the Creditor or Creditors shall be obliged, at the Expiration of Thirty Days next after the End of the said Two Years, (if not sooner redeemed) to give publick Notice by Advertisement, that the Lands or Tenements, so extended, are to be sold at publick Auction by the Provost Marshal or his Deputy, who are hereby impowered to sell the same, and to execute to the Person or Persons purchasing the same, a Deed thereof as of a Fee Simple, which Deed being registred as by Law required, shall be good and valid in the Law; but in the mean Time and until such Sale shall be made, the Equity of Redemption of such Lands or Tenements, shall be open in Favour of such Debtor or Debtors, their Heirs, Executors, Administrators, or Assigns, to recover the same; and if, upon such Sale, the said Lands or Tenements, do sell for more than the original Debt, Cost, Charges, and Interest, the Creditor or Creditors, or their Attorney or Agent or Assigns, shall pay the Overplus into the Hands of the Debtor or Debtors or their Heirs, Executors, Administrators, or Assigns, the said Creditor or Creditors accounting to such Debtor or Debtors, for all Rents and Profits, first deducting for all necessary Repairs: But if the said Lands or Tenements do sell for less than the Debt, Cost, Charges and Interest, then the Creditor or Creditors, or their Heirs or Assigns, in such Case, shall and may have an *Alias* Execution against the Debtor for the Residue.

Estates appraised at a greater Value than the Debt and Costs, to be sold at publick Auction, after 30 Days from the Expiration of the Two Years, if not sooner redeemed.

If sold for more than the Debt and Costs, &c. the Creditor to pay the Debtor the Surplus, and account for the Rents and Profits.

If sold for less, the Creditor to have an *Alias* Execution.

VI. *And be it further Enacted*, That when the Real Estate of the Debtor upon Appraisement, or when the yearly Rent of the Lands or Tenements extended upon, at the End of the said Two Years, shall be found insufficient to satisfy the Judgment, with Cost, Charges, Interest, and needful Repairs; That in either Case, an *Alias* Execution may issue on the said Judgment for the Remainder, and be levied

If the Real Estate is insufficient, &c. Execution to be levied on other Reverts, or the Body.

levied on such other Effects or Estate as can be found of the Debtor, or his Body may be taken and detained until Satisfaction be made of such Judgment, with Cost, Charges, and Interest; any Law, Usage, or Custom to the contrary notwithstanding.

Not to extend to Insolvent Debtors.

VII. *Provided*, That nothing herein contained shall extend or be construed to extend to the Detaining in Prison any poor Insolvent Debtor, contrary to the Law of this Province in that Case made and Provided*.

* The Law here referred to, expired, and was reenacted by 3. Geo. 3. c. 5. 2. Sess.

Vid. an Addition to this Act. 3. Geo. 3. c. 7. 2. Sess.

By Brit. Stat. 5. Geo. 2. c. 7. Lands and Tenements in the Plantations, shall be Assets for Payment of all Debts, as Real Estates are in England for Debts due by Bond.

C A P. XVI.

An Act for preventing Frauds by Butchers and Fish-mongers.

 *Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted,* That every Butcher and other Person, who shall kill or slaughter any Ox, Cow, Sheep, Swine, Calf, Lamb, or other Cattle, for Sale, shall slaughter and flea the same in the most clean and plain Manner, and shall not on any Pretence, raise, or blow, or use any fraudulent or deceitful Art to set off the same; and no Butcher or other Person, shall sell or expose to Sale any Cattle killed, but what shall be killed or dressed in the most plain Manner, and according to the Meaning of this Act; and if any Butcher or other Person shall offend in any of the Premises, and be convicted of the said Offence, before One Justice of the Peace of any County, by One Witness or Confession of the Offender, or on View by such Justice, he shall forfeit such Ox, Cow, Sheep, Swine, Calf, Lamb, or other Cattle, or Part thereof, killed or dressed contrary to this Act, to be disposed of, by such Justice, among the Poor of the Town, where such Offence shall be committed, or among the Prisoners; and shall further forfeit the Sum of Five Shillings to and for the Use of the Informer, to be levied by Warrant of Distress under the Hand and Seal of such Justice.

II. *And be it further Enacted*, That no Butcher or other Person shall sell or expose to Sale, any tainted Flesh or Fish, unfit for Sale, under the like Forfeiture and Penalty, to be prosecuted and recovered, and to be disposed of in Manner aforesaid, unless the said tainted Flesh or Fish be wholly unfit for Food, in which Case the

Cattle to be slaughtered and sold in the most clean and plain Manner,

on Penalty of forfeiting the Beast, or any Part thereof, to the Poor, and 5s. to the Informer.

Conviction before one Justice.

Person to sell any tainted Flesh or Fish, or like Penalty

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III. shall, and such Fleeted and offenders be to and

An Act punish gamy



riage shall Days, in the Town which Ma Hand of th the Time Governme formation,

II. And ting as suc the Parties made such shall forfeit aforesaid: to be broug

III. And fule to man known to tained a Lic to be recove Action of D

(a) The pre Orders a e repe of the Canons, b

the Justice before whom such Conviction shall be had, shall cause such tainted Flesh or Fish to be burnt or otherwise destroyed.

III. *And be it further Enacted*, That the Clerks of the Market shall, and are hereby impowered, *ex officio*, to seize and take all such Flesh blown or fraudulently or deceitfully set off, or Fish tainted and unfit for Sale, and to proceed against and convict such Offenders in Manner aforesaid, and the Fines arising therefrom shall be to and for their own Use.

Clerks of the Market may seize such tainted Flesh or Fish, *ex officio*.

C A P. XVII.

An Act concerning *Marriages* and *Divorce*, and for punishing *Incest* and *Adultery*, and declaring *Polygamy* to be *Felony*.

 *E it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted*, That any Person presuming to officiate in solemnizing any Marriage, before Notice of the Parties Intention of Marriage shall be publicly given, on Three several *Sundays* or *Holy Days*, in Time of Divine Service, in some Congregation within the Town or Towns, where each of the Parties do reside, or for which Marriage Licence shall not have been obtained, under the Hand of the Governor or Commander in Chief of the Province for the Time being, shall forfeit and pay to the Use of His Majesty's Government, *Fifty Pounds*, to be recovered by Bill, Plaint, or Information, in any of the Courts of Record within this Province.

No Marriage to be solemnized without Licence, or Notice thrice given in some Congregation,

on Penalty of forfeiting £50. by the Person officiating.

II. *And be it further Enacted*, That if any Clergyman, officiating as such in any Congregation in the Town or Towns, where the Parties reside, shall neglect or refuse to make or cause to be made such Publication when thereunto reasonably requested, he shall forfeit the Sum of *Fifty Pounds*, to be recovered in Manner aforesaid: And be subject nevertheless to an Action of Damages, to be brought by any of the Parties aggrieved.

Clergyman refusing to make Publication forfeits £50.

and liable to an Action for Damages.

III. *And be it further Enacted*, That if any Clergyman shall refuse to marry any Persons requesting him thereto, and making known to him that they have been duly published, or have obtained a Licence as aforesaid, he shall forfeit the Sum of *Fifty Pounds*, to be recovered in Manner aforesaid, and be subject to the like Action of Damages (a).

The like Penalty for refusing to marry.

(a) The preceding Restrictions and Penalties so far as they relate to Persons in Holy Orders are repealed, and Offences of this Nature by them, are remitted to the Injunctions of the Canons, by 33 Geo. 2. c. 3. Sect. 8. 2. Sess.

IV. *And*

Polygamy to be
Felony. *Eng. Stat.*
1 Ja. 1. c. 11.

Not to extend to
Marriages declared
void by the Gover-
nor and Council,

nor to work Cor-
ruption of Blood,
&c.

All Matters rela-
ting to prohibited
Marriages &c. to
be determined by
the Governor and
Council.

Cause of Divorce.
*This Clause is altered
by 1 Geo. 3. c. 7.
& the Power of di-
vorcing for Wilful
Desertion, &c. is by
that Act repealed.*

Persons within the
Degrees of Kindred
forbidden, who
shall carnally know
each other, to be
set on the Pillory
and forfeit £50.
or suffer Six Months
Imprisonment.

IV. *And be it further Enacted*, That if any Person, being married, do marry again the former Husband or Wife being alive, such Offence shall be *Felony (b)*.

V. *Provided nevertheless*, That the foregoing Clause of this Act, shall not extend to any Person whose former Marriage has been declared void, or who has obtained a Divorce by any Sentence had before the Governor and Council (c); nor shall any Attainder for this Offence work any Corruption of Blood, Loss of Dower; or Disinheritance of Heirs.

VI. *And be it further Enacted*, That all Matters relating to prohibited Marriages and Divorce, shall be heard and determined by the Governor, or Commander in Chief for the Time being, and His Majesty's Council of this Province.

VII. *And be it further Enacted*, That no Marriage shall be declared null and void, except for the Cause of Impotence, or of Kindred within the Degrees prohibited in an Act made in the Thirty Second Year of King HENRY the Eighth, intituled *An Act concerning Precontracts and touching Degrees of Consanguinity*; and that no Decree for Divorce shall be granted for any other than the two foregoing and the two following Causes, *viz.* That of Adultery, and That of wilful Desertion and withholding necessary Maintenance for three Years together (d); in any of which Cases every Person suing for a Divorce, shall be intitled to a Decree for that Purpose, to be obtained from the Governor or Commander in Chief for the Time being, and His Majesty's Council, who shall have full Power and Authority to grant the same.

VIII. *And be it further Enacted by the Authority aforesaid*, That every Man and Woman who shall carnally know each other, being within the Degrees of Kindred forbidden in the aforesaid Act, and shall be convicted thereof before His Majesty's Supreme Court of Judicature, Court of Assize and General Gaol Delivery, or Court of General Quarter Sessions of the Peace, shall be set in the Pillory for the

(b) 3 Inst. 88, 89, Kel. 80. 1 Hale's Hist. P.C. 692—694. 1 Hawk. P.C. c. 43. pa. 110.

The Offender against *Eng. Stat.* 1 Ja. 1. c. 11. may have the Benefit of his Clergy, 3 Inst. 89. tho' the Statute says he shall suffer the Pains of Death, Kelyng 104. For the Privilege of Clergy cannot be excluded without express Words.

(c) The Divorce must mean a *Mensa & Thoro*, since a Divorce a *vinculo Matrimonii* required no Aid from a *Proviso*. 1 Hale's Hist. P.C. pa. 694. Kel. 27, Tho. Middleton's Case.

(d) Whether it excepts Divorces *Causa Sævitia*. Potter's Case, Cro. Car. 463.

Tho' the second Marriage is utterly void, yet the Offender is declared a Felon by the Statute 1 Ja. 1. c. 11.

(d) Marriage *de facto*, or voidable for Precontract, &c. is in Judgment of Law a Marriage till avoided, and within *Eng. Stat.* 1 Ja. 1. c. 11. 3 Inst. 88.

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Space of One Hour, and further shall forfeit the Sum of *Fifty Pounds*, to the Use of His Majesty's Government, or suffer Six Months Imprisonment.

And be it further Enacted That every Person who shall commit Adultery, and shall be thereof convicted before any of His Majesty's Courts aforesaid, shall forfeit to the Use aforesaid the Sum of *Fifty Pounds*, or suffer Six Months Imprisonment, and to be subject nevertheless to an Action of Damages by any of the Parties aggrieved.

Persons committing Adultery to forfeit £50. or suffer Six Months Imprisonment, and liable to an Action for Damages.

Vide an Amendment to this Act, 1 Geo. 3. c. 7.

C A P. XVIII.

An Act for preventing *Frauds and Perjuries.*

It is Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the *First Day* of May in this present Year, *One Thousand Seven Hundred and Fifty Nine*, all Leases, Estates, Interests of Freehold, or Terms of Years, or any uncertain Interest of, in, or out of any Messuages, Lands, Tenements, or Hereditaments, made or created by Livery and Seisin only, or by Parol, and not put in Writing and signed by the Parties so making or creating the same, or their Agents thereunto lawfully authorized by Writing, shall have the Force and Effect of Leases, or Estates at Will only, and shall not, either in Law or Equity, be deemed or taken to have any other or greater Force or Effect, any Consideration for making any such Parol Leases or Estates, or any former Law or Usage to the contrary notwithstanding.

Eng Stat. 29 Car. 2. c. 3. Sec. 1.—4.

After the 1st May 1759, Leases, &c. by Livery & Seisin only, or by Parol and not put in Writing,

to have the Force of Leases or Estates at Will only.

II. Except nevertheless, all Leases not exceeding the Term of Three Years from the making thereof, whereupon the Rent reserved to the Landlord, during such Term, shall amount unto Two Third Parts at least, of the full improved Value of the Thing demised.

Except Leases not exceeding the Term of Three Years.

III. And be it also Enacted, That no Leases, Estates, or Interests, either of Freehold, or Term of Years, or any uncertain Interest of, in, to or out of any Messuage, Lands, Tenements, or Hereditaments, shall, at any Time after the said *First Day of May*, be assigned, granted, or surrendered, unless it be by Deed or Note in Writing, signed by the Party so assigning, granting, or surrendering the same, or their Agent thereunto lawfully authorized by Writing, or by Act and Operation of Law.

No Leases, &c. to be assigned, &c. unless by Deed or Note in Writing, signed by the Party, or by Act of Law.

No Action to be brought whereby to charge any Person to answer for the Debt, &c. of another,

Unless upon an Agreement, &c. in Writing, signed by the Party to be charged.

Eng. Stat. 29. Car. 2. c. 3. Sect. 7.—11. No Contract to be allowed for any Goods, &c. above £. 10. unless the Buyer accept Part, or give Earnest, or sign a Memorandum in Writing.

Eng. Stat. 29. Car. 2. c. 3. Sect. 7. Declarations of Trusts, &c. to be proved by some Writing signed by the Party declaring the same, or by his last Will in Writing.

Exception as to Conveyances of Lands, &c. whereby a Trust may arise by Construction of Law.

Grants and Assignments of Trusts to be in Writing signed by the Party, or by such last Will.

IV. *And be it further Enacted*, That from and after the said *First Day of May*, no Action shall be brought whereby to charge any Executor or Administrator upon any Special Promise, to answer Damages out of his own Estate, or whereby to charge the Defendant upon any special Promise, to answer for the Debt, Default or Miscarriages of another Person, or to charge any Person upon any Agreement made upon Consideration of Marriage, or upon any Contract or Sale of Lands, Tenements, or Hereditaments, or any Interest in, or concerning them, or upon any Agreement that is not to be performed within the Space of One Year from the making thereof, unless the Agreement upon which such Action shall be brought, or some Memorandum or Note thereof, shall be in Writing, and signed by the Party to be charged therewith, or some other Person thereunto by him lawfully authorised (a).

V. *And be it further Enacted*, That no Contract for the Sale of any Goods, Wares, and Merchandizes for the Price of Ten Pounds or upwards, shall be allowed to be good, except the Buyer accept Part of the Goods so sold, or actually receive the same, or give something in Earnest to bind the Bargain or in Part of Payment, or that some Note or Memorandum in Writing of the said Bargain be made, and signed by the Parties to be charged by such Contract, or by their Agents thereunto lawfully authorised (b).

VI. *And be it further Enacted*, That from and after the said *First Day of May*, all Declarations or Creations of Trusts or Confidences of any Lands, Tenements, or Hereditaments, shall be manifested and proved by some Writing signed by the Party who is, by Law, enabled to declare such Trust, or by his last Will in Writing, or else they shall be utterly void and of none Effect.

VII. *Provided always*, That where any Conveyance shall be made of any Lands or Tenements, by which a Trust or Confidence shall or may arise or result by the Implication or Construction of Law, or be transferred or extinguished by an Act or Operation of Law, then and in every such Case, such Trust or Confidence shall be of the like Force and Effect, as the same would have been, if this Act had not been made; any Thing herein before contained to the contrary notwithstanding (c).

VIII. *And be it further Enacted*, That all Grants and Assignments of any Trust or Confidence, shall likewise be in Writing, signed by the Party granting or assigning the same, or by such last Will or Devise, or else shall be utterly void and of none Effect.

(a) 1 Vern. 151. *Hollis versus Whiting*. Cases under particular Distinctions determined to be out of the Statute of Frauds. Equity Cases abridged, Fo. 19. 20.

(b) 2. Chanc. Cases, 135. *Leak versus Morrice*,

(c) 2. Vent. 361. 1. Vern. 366,

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X. *And* Simple to fcent, and Ancestor, no Heir, made Aff of the Ad Matter, b Estate, bu Affets, in chafed, in Heir plead upon.

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XII. *And* in any of H Fee, and s upon the P the Month Record, wh

IX. And be it further Enacted, That it shall and may be lawful for every Sheriff or other Officer, to whom any Precept or Writ shall be directed, upon any Judgment or Recognizance, to do Execution of all such Lands, Tenements, and Hereditaments, as any other Persons be seized or possessed of in Trust for him against whom Execution is sued, as if the Party against whom Execution shall be sued, had been seized of such Lands, Tenements, and Hereditaments, of such Estate as they be seized of in Trust for him at the Time of the Execution sued, which Lands, Tenements, and Hereditaments, shall be accordingly held, freed from all Incumbrances of such Persons seized or possessed in Trust.

Sheriff, &c. to execute Writs and do Execution of all such Lands, &c.

X. And if any *cestui que Trust*, shall die leaving a Trust in Fee Simple to descend to his Heirs, such Trust shall be Assets by Descent, and the Heir shall be chargeable with the Obligation of his Ancestor, as if the Estate in Law had descended to him. *Provided* that no Heir, who shall be chargeable by Reason of any Estate or Trust made Assets by this Law, shall by Reason of any Plea, Confession of the Action, or suffering Judgment by *nient de dire*, or other Matter, be chargeable to pay the Condemnation out of his own Estate, but Execution shall be sued of the whole Estate so made Assets, in whose Hands soever it shall come after the Writ purchased, in the same Manner as by the Common Law, where the Heir pleading a true Plea, Judgment is prayed against him thereupon.

Heir chargeable with the Obligation of his Ancestor.

but not out of his own Estate.

XI. And be it further Enacted, That any Estate *pur autre vie*, shall be devisable by a Will in Writing signed by the Party devising the same, or by some other Person in his Presence and by his Express Direction, attested and subscribed in the Presence of the Devisor by three or more Witnesses; and if no such Devise thereof shall be made, the same shall be chargeable in the Hands of the Heir, if it shall come to him by Reason of a special Occupancy, as Assets by Descent, as in Case of Lands in Fee Simple; and in Case there be no special Occupant thereof, it shall go to the Executors or Administrators of the Party that had the Estate thereof by Virtue of the Grant, and shall be Assets in their Hands, and shall be subject to the Payment of Legacies, and be distributable, after Payment of Debts, in the same Manner as other Estates of Intestate Persons are distributable by the Laws of this Province.

Eng. Stat. 29. Car. 2. c. 3. Sect. 12. Estate *pur autre vie* devisable by Will,

If no Devise, to be chargeable in the hands of the Heir, as Assets by Descent,

if no Special Occupant, to go to Executors, and to be distributable, after payment of Debts, as Intestate Estates.

XII. And be it further Enacted, That the First Judge on the Bench in any of His Majesty's Courts, shall sign every Judgment without Fee, and set down the Day of the Month and Year of his so doing, upon the Paper or Docket which he shall sign; which Day of the Month and Year, shall be also entered upon the Margin of the Record, where the said Judgment shall be entered.

Eng. Stat. 29. Car. 2. c. 3. Sect. 14. 15. The first Judge on the Bench to Sign every Judgment without Fee.

XIII. And

IX. And

which shall be deemed a Judgment from such Time only.

XIII. And such Judgments as against Purchasers *bonâ fide* for valuable Considerations of Lands, to be charged thereby shall, in Construction of Law, be Judgments only from such Times as they shall be so signed, and shall not relate to the First Day of the Term whereof they are entered, or to the Day of the Return of the Original or filing the Bail.

No Satisfaction of any Judgment to be entered, or removed by motion of an Attorney, unless his Warrant be proved by Affidavit of One Witness.

XIV. And be it also Enacted, That no Satisfaction shall, at any Time, be entered on the Record of any Judgment, upon the Motion of any Attorney, except the said Attorney shall prove his Warrant for acknowledging such Satisfaction, by Affidavit of One credible Witness in Writing, to be filed in the Office where such Judgment is entered.

Eng. Stat. 29. Car. 2. c. 3. Sect. 16. No Execution to bind the Property of Goods, but from the Time that it is delivered to the Sheriff.

XV. And be it further Enacted, That no Writ of Execution shall bind the Property of the Goods of the Party, against whom such Writ of Execution is sued forth, but from the Time such Writ shall be delivered to the Sheriff, Undersheriff or Coroner, to be executed; and the Sheriff, Undersheriff and Coroners shall, upon the Receipt of any such Writ, without Fee, indorse thereon the Day of the Month and Year whereon they received the same.

Construction of Stat. of Frauds respecting Wills of Real Estates, vide Equity Cases abridged, Tit. Wills and Testaments, Let. A.

The Clauses of the Eng. Stat. 29. Car. 2. c. 3. Sect. 5, 6. & 19 — 25. are enacted by Prev. Law 32. Geo. 2. c. 11. relating to Wills & Testaments &c.

C A P. XIX.

An Act to provide for the Support of *Bastard Children*, and the Punishment of the Mother and reputed Father.

Eng. Stat. 18 Eliz. c. 3. 7. Jas. 1. c. 4. Sect. 7. 13 & 14. Car. 2. c. 12. Sect. 19. 6. Geo. 2. c. 31. If a Woman be with Child of a Bastard likely to be chargeable to any Place within the Province, the Father to be bound by one Justice, with Sureties to indemnify such Place,

 E it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the Twenty Fifth Day of March Instant, if any Woman shall be delivered of a Bastard Child, which shall be chargeable or likely to be chargeable to the Province, she having declared to the Midwife, or other Persons assisting her at the Time of Delivery, who the Father of such Child was, and shall have at some Time before, declared herself to be with Child, and that such Child is likely to be born a Bastard, and to be chargeable to any Place within the Province, and shall in either of such Cases, upon Examination to be taken in Writing upon Oath, before One Justice of the Peace near where such Place shall lie, charge any Person with having gotten her with Child; it shall and may be lawful for such Justice, upon Application made to him by the

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the Overseers of the Poor of such Place, or any One of them, or some substantial Householder of such Place, to issue out his Warrant to apprehend such Person so charged as aforesaid; and to bring him before him or some other of His Majesty's Justices, and to commit such Person to Gaol or the House of Correction, unless he give Security to indemnify such Place from the supporting or maintaining such Child or Children, and shall enter into Recognizance with sufficient Security for his Appearance at next Quarter Sessions, where he shall be continued on Recognizance till the Woman is delivered of such Child or Children. *Provided*, that if such Woman shall die or be married before she be delivered, or Miscarry of such Child or Children, or shall appear not to have been with Child at the Time of her Examination, such Person shall be discharged from his Recognizance at the next Sessions, or immediately released out of Custody, if committed.

and to appear at next Sessions, and to be continued till the Woman be delivered.

II. *And be it further Enacted*, That any Two Justices of the Peace near the Place where any Bastard Child shall be born, upon Complaint made by the Overseers of the Poor or any One of them, or of some substantial Householder, upon due Examination of the Cause and Circumstances, shall and may by their Discretion make an Order for the Relief of such Place, or Children, and for keeping such Bastard Child, and that said Mother or reputed Father of such Child or Children, shall find sufficient Security that such Child shall not become burthen some or chargeable to any Place in said Province, or pay the Sum of Twenty Pounds, which shall be paid into the Hands of the Overseers of the Poor for the Support of such Child or Children, or other Town Uses. And if, after the said Order made by said Justices, and by them subscribed and directed to the Overseers of the Poor, any of said Persons, *viz.* Either the Father or Mother, upon Notice thereof, shall not for his or her Part observe and perform said Order, then such Party, making Default, to be committed to Gaol or House of Correction for the Space of Six Months, except he or they shall give sufficient Security to perform said Order, or else personally appear at the next Quarter Sessions and abide by such Order as shall be made at said Sessions in that behalf, and if no Order shall be made at said Sessions, then to abide by the first Order.

Order to be made by Two Justices for the Relief of any Place, and that the Mother or reputed Father shall find Security that such Child shall not be burthen some, or pay £20.

on Failure to be committed for Six Months.

III. *And it is hereby further Enacted*, That in Case any Woman shall accuse or charge any Man with having gotten her with Child, though the Woman be not with Child, or that the Child be not really his, but appears to be only a Contrivance to defame the Person, or cheat him of his Money, that in such Case the said Woman shall be sent to the House of Correction, there to be whipped and remain for the Space of Six Months.

Woman accusing a Man wrongfully, to be sent to the House of Correction for Six Months.

IV. *Provided nevertheless*, That if any Person shall think himself wrongfully charged, or if the Person charging him be a Woman

Appeal to the next Sessions, upon Security given.

of ill Fame or a Common Whore, in such Cases, upon giving Security to abide the Judgment of the Court, he may appeal from the Order of the Justices, to the next Sessions, when the whole Cause may be heard and tried by such Court, on the Verdict of a Jury.

1. Stra. 503. 612. 2 Stra. 716, 1050.

C A P. XX.

An Act for punishing Criminal Offenders.

Blasphemy.

BE it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That if any Person shall presume willfully to blaspheme the Holy Name of GOD, Father, Son, or Holy Ghost, or to deny, curse or reproach the true GOD, his Creation or Government of the World, or to deny, curse, or reproach the Holy Word of GOD, *that is*, the Canonical Scriptures in the Books of the Old and New Testament; every such Offender, being thereof duly convicted at the Court of Assize and General Gaol Delivery, or Sessions of the Peace, shall be set twice in the Pillory, for the Space of One Hour each Time, or be imprisoned for three Months, at the Discretion of the Court where such Offender shall be convicted (a).

Prophanely swearing or Cursing.
Eng. Stat. 19 Geo. 2. c. 21.

II. *And be it further Enacted,* That if any Person shall prophanely swear or curse in the Presence or Hearing of any Justice of the Peace, or shall be thereof convicted by the Oath of One credible Witness, or by the Confession of the Party before any Justice of the Peace, every Person offending shall forfeit, to the Use of the Poor of the Town where such Offence shall be committed, for the First Offence Two Shillings, and in Case such Person shall, after Conviction, offend a second Time, such Person shall forfeit double, and if a third Time, Treble the Sum to be paid for the first Offence; and upon Neglect of Payment, the Justice shall issue his Warrant to a Constable, commanding him to levy the said Forfeitures by Distress and Sale of the Goods of such Offender, and the Forfeiture, when paid or levied, shall be delivered to the Overseers of the Poor for the Use of the Poor as aforesaid; and in Case no Distress can be had, such Offender being above the Age of Sixteen Years, shall by Warrant of the Justice, be set in the publick Stocks for One Hour for every single Offence, and for any Number of Offences whereof he shall be convicted at One Time, Two Hours; and if

(a) Vide the Disabilities and Punishment for Blasphemy, by *Eng. Stat. 9. & 10. Will. 3. c. 32. 1. Strange 416. Rex versus Hall. 2. Strange 834. Rex versus Woolston. Fitz Gibbons Reports S. C. 1. Vent, 293. Taylor's Case. 3. Keb. 607. 62*

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the Party offending be under the Age of Sixteen Years, and shall not pay the Forfeitures, he shall, by Warrant of the Justice, be whipped by the Constable, or by the Parent, Guardian, or Master of such Offender, in Presence of the Constable; *Provided always*, that every such Offence be proved or prosecuted within Ten Days after the Offence committed.

III. *And be it further Enacted*, That every Person who shall by the Oath of any Justice of the Peace, or Confession of the Party, or Oath of One credible Witness before any such Justice, be convicted of Drunkenness, shall forfeit and pay for the Use of the Poor of the Town where such Offence is committed, the Sum of Five Shillings, to be levied, on Neglect or Refusal to pay the same, by Warrant of Distress and Sale of the Offender's Goods, and the said Sum, when paid or levied, shall be delivered to the Overseers of the Poor for the Use of the Poor as aforesaid, and for Want of such Distress, such Offender shall be set in the Stocks for any Time not exceeding three Hours, at the Discretion of the Justice or Justices before whom such Offender shall be convicted: And upon a second Conviction of Drunkenness in like Manner as aforesaid, every such Offender shall, over and above the Penalty aforesaid, be bound with two Sureties, in the Sum of Ten Pounds, with Condition for the good Behaviour, and for Want of such Sureties, such Offender shall be committed to the common Gaol until he shall find the same; *Provided*, That every such Offence be proved or prosecuted within Ten Days after the Offence committed.

Drunkenness
Eng. Stat. 4. Jas. 1.
c. 5. & 21. Jas. 1.
c. 7.

IV. *And be it further Enacted*, That the Justices of the Peace shall register all the Convictions made before them, of such prophane Swearing, Cursing, or Drunkenness, and shall certify the same to the next Quarter Sessions, to be kept upon Record by the Clerks of the Peace, to be seen without Fee.

Justice to register
Convictions.

V. *And be it also Enacted*, That if any Action shall be brought against any Justice of the Peace or Officer for any Proceedings on the said Offences in Pursuance of this Act, the Defendant may plead the General Issue, and give the special Matter in Evidence, and if the Plaintiff shall be Non suit, or a Verdict shall be found for the Defendant, such Defendant shall have Treble Costs.

Justice, if sued, to
plead the General
Issue.

VI. *And be it further Enacted*, That every Person duly convicted at the Court of General Gaol Delivery, or Quarter Sessions, of counterfeiting (b) or impairing (c), diminishing or imbasing any

Counterfeiting, &c.
Foreign Coin current
in the Province.

(b) By Eng. Stat. 1. Mar. Stat. 2. c. 6. Sect. 2. Counterfeiting foreign Coin current in England is adjudged Treason. By Eng. Stat. 14 Eliz. c. 3. Counterfeiting foreign Coin not current, *Misprison of Treason*.

(c) By Eng. Stat. 12 Eliz. c. 1. Sect. 1. Impairing, &c. Foreign Coin current by Proclamation in the Realm or Queen's Dominions Treason.

Foreign

Foreign Coins, current in the Province, by washing, clipping, (*d*) rounding, filing, or scaling of the same, or of uttering (*e*) any counterfeited or impaired Coin, knowing the same to be so counterfeited or impaired, shall be set in the Pillory, by the Space of One whole Hour, and One of the Ears of such Offender shall be nailed thereto, and such Offender shall also be publicly whipped through the Streets of the Town where such Offence shall be committed, and shall pay all Charges of the Prosecution (*f*).

Eng. Stat. 6. & 7.
Will. 3. c. 17.
Sect. 4.
Buying Clippings,
&c.

VII. *And be it further Enacted*, That every Person convicted as aforesaid, of buying or receiving any Clippings, Scalings, or Filings of Money, shall forfeit the Sum of Twenty Pounds, one Moiety thereof for the Support of His Majesty's Government in this Province, and the other Moiety to him or them who shall inform and sue for the same, and also be imprisoned for the Space of Three Months.

Forgery.

Eng. Stat. 5. Eliz.
c. 14. 2. Strz. 901.
Rea. versus Japhet
Crooke.

VIII. *And be it further Enacted*, That if any Person shall forge or counterfeit, or procure to be forged or counterfeit, or willingly assist in the forging or counterfeiting, any Deed or Writing sealed, or last Will or Testament, or shall publish or shew forth in Evidence, any such forged or counterfeit Deed, Writing sealed, or last Will or Testament, as true, knowing the same to be false; or if any Person shall forge or counterfeit, or procure to be forged or counterfeited, or willingly assist in the Forging or Counterfeiting, any Bond, Writing Obligatory, Bill of Exchange, Promissory Note for the Payment of Money, or any Indorsement or Assignment of any Bill of Exchange, or such Promissory Note for Payment of Money, or any Acquittance or Receipt either for Money or Goods, or any Discharge of any Action, Account, Debt, Demand, or any personal Thing, with Intention to defraud any Person, or shall utter or publish as true, any forged or counterfeited Bond, Writing Obligatory, Bill of Exchange, or such Promissory Note for the Payment of Money, or such Acquittance, Receipt, or Discharge, with Intention to defraud any Person, knowing the same to be forged or counterfeited; every such Person, being thereof convicted at the Court of Assize and General Gaol Delivery, or Sessions of the Peace, shall be set in the Pillory, and there have One of his Ears cut off, and shall also suffer Imprisonment for the Space of One Year without Bail or Mainprize; and the Party grie

Pillory, &c.

(*a*) Clipping, &c. English Coin or foreign Coin current in England, or the Queen's Dominions, is declared to be Treason by Eng. Stat. 5. Eliz. c. 11. Sect. 2.

(*e*) Evidence respecting Utterance of counterfeit Money, Vide Eng. Stat. 15. Geo. 2. c. 28. & 8. & 9. Will. 3. c. 26. Sect. 6.

(*f*) No Foreign Coin is now current that is legitimated, and most probably none will, so that on the English Statutes there can be no Prosecutions, till some Species of Foreign Coin is legitimated. Judge Foster's first Diss. of H. Treason, c. 3. Sect. 5.

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ved shall recover his double Costs and Damages, to be assessed in the Court where such Conviction shall be: *Provided always, and it is hereby Enacted*, That this Act nor any Thing herein contained, shall not extend to charge any Judge of Probate, or any Register, for any of the Offences aforesaid, for putting their Seal of Office to any Will to be exhibited to them, not knowing the same to be forged or counterfeited, or for Writing of the said Will or Probate of the same, nor to any other Person or Persons that shall shew forth or give in Evidence, any false or forged Writing for true or good, being not Party or privy to the Forging of the same, not knowing the same to be false or forged (g/).

Not to extend to
Judge of Probate,
&c.

IX. *And be it further Enacted*, That if any Person or Persons, either by the Subornation, unlawful Procurement, sinister Persuasion or Means of any other, or by their own Act, Consent, or Agreement, shall wilfully or corruptly commit Perjury, by his, her, or their Deposition in any Court of Record, or being examined *ad perpetuam rei memoriam*, every Person so offending, and being thereof duly convicted, shall forfeit Twenty Pounds, the one Moiety thereof for the Support of this His Majesty's Government, and the other Moiety to such Person or Persons as shall be grieved by Reason of the Offence, that shall sue for the same by any Action of Debt, Bill, Complaint, or Information in any Court of Record; and shall also be imprisoned by the Space of Six Months without Bail or Mainprize. And the Oath of such Person or Persons shall not be received in any Court of Record, until such Time as the Judgment given against the said Person or Persons shall be reversed, and upon every such Reversal, the Parties aggrieved shall recover their Damages against such Person or Persons, as did procure the said Judgment so reversed, to be given against them or any of them, by his, her, or their Action upon the Case, according to the Course of the Common Law (h/).

Perjury.
*Eng. Stat. 5. Eliz.
c. 9. 2. Stra. 921.
Rec. versus Philips.*

Penalty £ 20.

and six Months Im-
prisonment.

X. And if the said Offender or Offenders shall not have any Goods or Chattels to the Value of Twenty Pounds, then he, she or they shall be set on the Pillory, by the Space of one whole Hour, and both his Ears shall be nailed to the Pillory, and from thenceforth such Offender shall be discredited and disabled for ever to be sworn in any Court of Record, until such Time as the Judgment shall be reversed.

or Pillory.

XI. *And be it further Enacted*, That every Person and Persons who shall unlawfully and corruptly procure any Witness or Witnesses, by Letters, Rewards, Promises, or by any other sinister and unlawful Labour or Means whatsoever, to commit any wilful

Procuring Witnesses
to commit wilful
Perjury.
*Eng. Stat. 5. Eliz.
c. 9.*

(g) 1 Hawk. P. C. c. 70. Sect. 12.—27.

(h) 1. Hawk. P. C. c. 69. Sect. 17.—23.

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and corrupt Perjury in any Matter or Cause whatsoever, depending or that shall depend in Suit and Variance by any Writ, Action, Bill, Complaint or Information in any Court of Record, or to testify in *perpetuam rei memoriam*; every such Offender, being thereof duly convicted, shall suffer the like Pains, Penalties, Forfeitures, and Disabilities in all Respects as are hereby directed for the like Offences, and the said Forfeiture to be recovered and applied in Manner as aforesaid

Judges empowered to inquire of such Offences.

XII. *And be it further Enacted*, That as well the Judges of the said Courts, where such Perjury shall be committed, as also the Justices of Assize and Gaol Delivery, and the Justices of the Peace at their Quarter Sessions, shall have Power to inquire of all the said Offences of wilful Perjury, and Subornation of Perjury, and thereupon to give Judgment, award Process and Execution of the same.

Authority of Judges before this Act, not to be restrained,

XIII. *Provided* That the Authority of any Judge, having absolute Power to punish Perjury before the making this Act, shall not be restrained, but that they may proceed in the Punishment of the same, in such wise as they might have and used to do, so that they set not upon such Offenders, less Punishment than is before directed.

False Tokens.
Eng. Stat. 33.
Hen. 8. c. 1. 30. Geo.
2. c. 24.

XIV. *And be it further Enacted*, That if any Person or Persons shall falsely and deceitfully obtain or get into his, her, or their Hands or Possession, any Money, Goods, Chattels, Jewels or other Things of any other Person or Persons, by Colour and Means of any privy false Token, or counterfeit Letter made in another Man's Name, to a special Friend or Acquaintance, for the obtaining of Money, Goods, Chattels, Jewels or other Things, and shall be thereof convicted in any Court of Oyer and Terminer, Court of Assize and General Gaol Delivery, or Quarter Sessions of the Peace, every such Offender shall suffer such Punishment by Imprisonment, setting upon the Pillory, publick Whipping, or hard Labour in the House of Correction, as such Court where the Offender shall be convicted, shall in their Discretion adjudge (*i*).

Punishment of Persons above 14 Years of Age, making or publishing any lies, &c.

XV. *And be it further Enacted*, That if any Person or Persons, above the Age of Fourteen Years, shall be convicted by Confession, or by the Oath of one credible Witness, before any Justice of the Peace, of making or publishing any Lye, Label, or scandalous Report, tending to the Defamation or Damage of any Person, or shall, with Intent to abuse and deceive others, invent or spread any false News; every such Offender shall be fined at the Discretion of such Justice, in any Sum, not exceeding Five Pounds, to be paid to the Overseers of the Poor, for the Use of the Poor of the Town where the Offence shall be committed, and shall be bound

(1) 3 Inst. 123. Cro. Car. 564. *Qu.* Whether this Offence is fineable, 1. Hawk. P. C. c. 71. Sect. 6

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in a Recognizance, with two Sureties, for the good Behaviour, during such Time as the Justice shall think meet, and upon the Neglect or Refusal of such Offender to pay the Fine, such Justice may issue his Warrant for levying the same by Distress and Sale of the Offender's Goods; and in Default of such Distress, may either commit the Offender for one Month, or may order such Offender to be set in the Stocks for three Hours, or to be whipped, at the Discretion of the Justice, upon the Nature and Circumstances of the Offence. and such Offender may be committed until the Sureties hereby required, shall be found for the good Behaviour. And the Party or Parties injured shall and may be at Liberty notwithstanding such Fine or Punishment, to proceed against such Offender or Offenders by Suit in any Court of Record, for any Special Damage sustained by Reason of such Defamation.

C A P. XXI.

An Act relating to the Assize of Bread, and for ascertaining the Standard of Weights and Measures.

WHEREAS great Frauds are daily committed in this Province, because no Standard for Weights and Measures in the Assize of Bread, has hitherto been established; *Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That* all Weights and Measures used in this Province, shall be brought to the Standard of the Exchequer of England: And that the Treasurer of the Province, as soon as may be, procure a Set of Standards, Long, Liquid, and Dry, and a Set of Brass Weights and Scales, and that until such Weights and Measures shall arrive, the Weights at His Majesty's Ordnance Store shall be the Standard. And the Clerks of the Market for each Town, shall procure therefrom, a Set of Weights according to such Standard, which shall remain with them as Assay Weights, and shall be marked with the Letters **G H: R:**

II. And be it further Enacted, That every Inhabitant in each Town respectively, making Use of Weights and Measures in the Sale of any Commodity, shall, in One Week after public Notice given by such Clerks respectively, bring or cause to be brought, their Weights and Measures to be assayed, for each of which Assay he shall have Two Pence for his Trouble and expence, and the said Clerk shall cause such Weights and Measures to be branded or stamped with the Initial Letter of the Town where such Assay shall be made. And whosoever shall thenceforward, sell or vend any Commodity by Weights or Measures not so branded or marked, shall

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forfeit 20s.
Conviction before
One Justice.

shall forfeit for every such Offence Twenty Shillings, on due conviction thereof, before any One of His Majesty's Justices of the Peace for the County wherein the Offence shall be committed, to be levied by Warrant of Distress and Sale of the Offender's Goods.

Clerks of the Market to inspect
Weights and Measures once in three
Months.

III. *And for the more effectual preventing such Frauds, be it further Enacted*, That the said Clerks shall and are hereby impowered to inspect all Weights and Measures, and for that Purpose once in Three Months, or oftner if they see Cause, shall visit every Inhabitant selling publickly by Weights and Measures, and shall have full Power and Authority to seize all such, not stamped or branded as aforesaid, and may assay and mark and dispose of the same for their Use, as a Satisfaction for their Trouble therein; and if any Person shall hereafter be convicted of Selling by Weights and Measures less than the Standard hereby established, he shall forfeit the Sum of Ten Pounds, to be recovered by Bill, Complaint, or Information, in any of His Majesty's Courts of Record.

Selling by Weights
and Measures less
than the Standard,
Penalty £10.

IV. *And for preventing Frauds in the Assize of Bread, be it Enacted*, That the Clerks of the Market be and are hereby impowered to visit every Bake House, or the House of any other Person selling Bread, and to seize all such as shall be found under the Weight and Assize, established by this Act as follows, viz.

Assize of Bread.

*When the Price of fine Wheaten Flour is at or under
Twelve Shillings the 112lb. avoirdupois*

Avoirdupois

Lb. Oz.

<i>The Sixpenny Loaf of the same shall weigh</i>	-	-	-	-	4.	0.
<i>When from Twelve to Fourteen Shillings inclusive</i>	-	-	-	-	3.	8.
<i>From Fourteen to Sixteen inclusive</i>	-	-	-	-	3.	0.
<i>From Sixteen to Eighteen inclusive</i>	-	-	-	-	2.	12.
<i>And above Eighteen</i>	-	-	-	-	2.	8.

Clerks to seize all
Bread under the
Assize.

V. *And that it shall and may be lawful for the said Clerks to stop*, and examine the Bread that may be carried through the Streets, by any Person or Persons, either for immediate Sale, or the Supply of his or their Customers, and in like Manner to seize all such as shall be found under the Weight and Assize.

Bakers to mark
their Bread with the
first Letters of their
Names.

VI. *And be it further Enacted*, That every Baker within this Province, shall and are hereby required to mark his Bread with the first Letter of his Christian and Surname, which, upon Failure thereof, shall be seized, and such Bread, so seized, shall be forfeited, and delivered to the Overseers of the Poor of the Town where

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where the Offence is committed, for the Benefit of the Poor or Prisoners.

Bread not marked
to be forfeited.

VII. *Provided always*, That if any Person shall think himself aggrieved by such Seizure, he may apply for Redress to any of His Majesty's Justices of the Peace for the County, who is hereby empowered to determine the same, if Application be made within Twelve Hours after the Seizure be made.

Appeal to a Justice
within 12 Hours.

VIII. *And be it further Enacted*, That if any Person making use of Weights and Measures, or selling Bread, shall refuse Admittance to any of the said Clerks, declaring the Intent of their coming to discharge the Duty of their Office, he shall for every such Refusal, forfeit the Sum of Twenty Shillings, to be recovered before any One of His Majesty's Justices of the Peace.

Refusing Admittance to Clerks,
Penalty 20s.

Vide Additions to this Act. 33 Geo. 2. c. 6. 2 Sess. 4 Geo. 3. c. 5. 2 Sess. 6 Geo. 3. c. 5.

C A P. XXII.

An A C T declaring what shall be deemed a *Publication* of the *Province Laws*.

BE it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That the publick Reading any Law of this Province, by the Provost Marshal or his Deputy, on the Parade of Halifax, after Notice by beat of Drum, shall be deemed a sufficient Publication thereof.

Reading the Laws
on the Parade, a
sufficient Publication.

II. *And all Laws*, already published in that Manner, are hereby declared to have been in Force accordingly, from the Time of such Publication.

All Laws so published,
declared to
have been in force
accordingly.

C A P. XXIII.

An A C T for preventing Persons leaving the Province without a Pass.

WHEREAS Injustice may be done to Creditors by Persons in their Debt privately leaving the Province, and great Inconveniences have likewise arisen, from Seamen in the Royal Navy and Soldiers being secretly conveyed away: For Preventing thereof, *Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted*, That

Preamble.

P

all

Persons intending to leave the Province, to put up their Names at the Secretary's Office, 7 Days before they shall have a Pass.

Secretary refusing a Pass, forfeits £50.

all and every Person or Persons, intending to Leave this Province, shall put up their Names publickly at the Secretary's Office, for the Space of Seven Days, before they shall obtain any Pass, with the Day and Year when they put up their Names, and in Case said Person or Persons are not, within said Seven Days, underwrote in Manner as has been usual, that then and in such Case, it shall and may be lawful for the Secretary or his Deputy, and they are hereby required, to grant said Person a Pass, for which he shall receive One Shilling only. And in Case said Secretary or his Deputy shall refuse a Pass to any Person or Persons that have complied with the Rules prescribed by this Act, he or they shall forfeit the Sum of Fifty Pounds, to be recovered by Bill, Plaint or Information in any of His Majesty's Courts of Record in this Province, and for the Use of the Person grieved.

II. *And be it further Enacted*, That the Pass for Persons leaving this Province shall be in the following Words :

Form of the Pass.

" Province of }
 " Nova Scotia } **P E R M I T** *to depart*
 " this Province in the *Master,*
 " bound for *he or they*
 " having complied with the Act of this Province for
 " that Purpose.
 " Dated

Persons underwriting another to file an Affidavit of the Debt due,

III. *And be it further Enacted*, That whosoever shall underwrite any Person or Persons, so having their Names set up as aforesaid, shall produce at the Secretary's Office an Affidavit made before One of His Majesty's Justices of the Peace, which Affidavit shall remain in the said Office, setting forth the Cause in Writing, if a Debt, the Sum or Sums of Money that is due or owing to him or them, to be ascertained as near as they possibly can, and by what Means it doth arise, whether by Bill, Bond, Judgment, Promise, Covenant, or Account. And when any Person so setting up their Names in the Secretary's Office as aforesaid, shall be underwrote by any Person in manner aforesaid, that then and in such Case, it shall be lawful for the Secretary or his Deputy, to take good and sufficient Security from the Person or Persons so underwritten, for the Sum or Sums that he or she is underwrote for; which Security shall be in the following Words :

for which Sum Security is to be taken by the Secretary.

Form of the Bond.

" **K N O W** all Men by these Presents, That We
 and *of Halifax, are firmly bound unto*
 " in the Sum of *to the true Payment of which,*
 " We bind ourselves, our Heirs and Assigns firmly by these Presents
 " Witness our Hands and Seals this *Day of*

" T H E

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"THE Condition of the above Obligation is such, That whereas
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"Halifax aforesaid, for the Sum of Now if the said
 or they, their Heirs or Assigns will pay
"or cause to be paid to said the said Sum of
"or such Sum as shall legally, upon Trial, appear to be due to said
"then the above Obligation to be void, other-
"wise to remain in full Force and Virtue."

For taking of which Bond the Secretary shall receive Two Shillings and Six Pence only. Secretary's Fee.

IV. *Provided always*, and it is the full Intention and Meaning of this Act, That the Persons so underwriting, file their Actions in the next Inferior Court, after Security be given for their Debts then due, otherwise the same being pleaded, shall be a sufficient Bar to their Action or Actions. Actions to be brought at the next Inferior Court.

V. *And be it further Enacted*, That any Person or Persons that have been underwrote as aforesaid, upon their giving Security as before directed, are hereby intitled to receive their Pass, in like Manner as if they had not been underwrote. And the Secretary or his Deputy are hereby impowered to deliver the said Bond so taken as aforesaid, to the Person or Persons that underwrote the Person so going away. And said Bond shall be good and valid against the Security for the Recovery of such Sum or Sums as the Person or Persons, to whom the said Bond is delivered, can make appear, upon Trial, was really due to him by the Person he underwrote, with the Costs thereon. Persons underwrote to have their Pass, on giving Security.
Bonds to be delivered to Creditors.

VI. *And be it further Enacted*, That in Case any Person intending to leave the Province before the Seven Days are expired, after Setting up his or her Name, may obtain their Pass from the Secretary or his Deputy, by giving sufficient Security and Entering into Bond as aforesaid, that said Security will pay all the Debts said Person going away has contracted in the Province: which Bond shall be good and valid against said Security. Security to be given for Payment of all Debts, by Persons intending to leave the Province before the 7 Days are expired.

VII. *And it is hereby further Enacted*, That in the Out Parts of this Province, Passes may be obtained from the Commanding Officer for the Time being, or from any other Person, whom the Governor or Commander in Chief shall appoint for that purpose, who are hereby impowered to grant the same, in Manner as prescribed by this Act. Passes to be granted at the Out Ports, by Commanding Officers, &c.

VIII. *Provided always*, That nothing in this Act shall be construed to extend to the Restraining any Military Person or Persons Not to extend to Military Persons.

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Persons groundless-
ly underwriting, li-
able to an Action.

Masters of Vessels
carrying any Person
from Halifax with-
out a Pass,

forfeit £50. and
liable to all Da-
mages.

sons from immediately departing the Province, with a special Per-
mission under the Hand of the Commander in Chief of the Troops.

IX. *And be it further Enacted by the Authority aforesaid:* That if
upon Trial, it shall appear that the Cause for underwriting any
Person or Persons, setting up their Names in the Secretary's Of-
fice to depart this Province, be vexatious and groundless, that
then and in such Case, the Person so underwriting shall be liable
to an Action of Damages, to be recovered as aforesaid.

X. *And be it further Enacted,* That no Master of any Ship or
Vessel, going from the Port of *Halifax*, shall carry away any Per-
son whatsoever, without a Pass signed by the Secretary of this
Province or his Deputy, (except the Crew or Seamen brought with
him in such Vessel, at his last Arrival) nor shall leave the said Har-
bour without Permission in Writing from His Excellency the Go-
vernor, Lieutenant Governor, or Commander in Chief for the Time
being of this His Majesty's Province; And the Master of any Ship
or Vessel offending contrary to the Tenor of this Act, shall for-
feit the Sum of Fifty Pounds, to the Use of this Government, and
be liable to pay all Damages, to be recovered by Bill, Complaint, or
Information in any of His Majesty's Courts of Record in this Pro-
vince, to be levied by Sale of the Offender's Goods and Chattels,
by Warrant under the Seal of said Court, and for want of
such Goods and Chattels, the Person convicted to be committed to
some of His Majesty's Gaols for the Space of Six Months.

Vide an Addition to this Act, 6 Geo. 3. c. 4.

C A P. XXIV.

An ACT for Limitation of Actions, and for avoiding Suits of Law.

*** *E it Enacted by His Excellency the Governor, Council, and
B Assembly, and by the Authority of the same it is hereby Enacted,*
*** That all Actions or Suits, either in Law or Equity, at
any Time hereafter to be sued or brought, of or for any
Lands, Tenements or Hereditaments, within this Province, where-
unto any Person or Persons now hath or have any Title, or Cause
to have or pursue any such Actions or Suits, shall be sued and taken
within Twenty Years next after the End of this present Session of
the *General Assembly*; and after the said Twenty Years expired, no
Person or Persons, or any of their Heirs, shall have or maintain
any such Action or Suit, of or for any of the said Lands, Tene-
ments, or Hereditaments; and that all Actions or Suits, either in
Law or Equity, of or for any Lands, Tenements, or other Here-
ditaments,

*Eng. Stat. 21. Ja. 1.
c. 16.*

Actions for the Re-
covery of Lands,
&c. to be brought
within 20 Years.

*2. Salk. 421, 422,
423.*

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dicaments whatsoever, at any Time hereafter to be sued or brought by Occasion or Means of any Title or Cause hereafter happening, shall be sued and be taken within Twenty Years, next after the Title and Cause of Action first descended or fallen, and at no Time after the said Twenty Years, and that no Person or Persons that now hath any Right or Title of Entry into any Lands, Tenements, or Hereditaments, now held from him or them, shall thereunto enter, but within Twenty Years next after the End of this present Session of the *General Assembly*, or within Twenty Years next after any other Title of Entry accrued.

II. And that no Person or Persons shall at any Time hereafter, make any Entry into any Lands, Tenements, or Hereditaments, but within Twenty Years next after his or their Right or Title, which shall hereafter first descend or accrue to the same, and in Default thereof, such Person so not entering, and their Heirs, shall be utterly excluded and disabled from such Entry after to be made.

Persons not enter-
ing within 20 Years,
excluded.

III. *Provided nevertheless*, That if any Person or Persons that is or shall be intitled to such Actions or Suits, or that hath or shall have such Right or Title of Entry, be, or shall be at the Time of the said Right or Title first descended, accrued, come or fallen, within the Age of Twenty One Years, * Feme Covert, Non Compos Mentis, imprisoned, or beyond the Seas †, that then such Person and Persons, and his or their Heirs, shall or may, notwithstanding the said Twenty Years be expired, bring his Action or Suit, or make his Entry, as he might have done before this Act; so as such Person and Persons, or his or their Heirs, shall, within Ten Years next after his and their full Age, Discoverture, coming of sound Mind, Enlargement out of Prison, or coming into this Province, or Death, take Benefit of, and sue for the same, and at no Time after the said Ten Years.

Saving for Minors
&c. * 1. Lev. 31.
2. 2nd. 121.
Abr. Eq. 304.
† Cro. Car.
245. 333.
1. Lev. 143.
2. Sulk. 40.
Eng. Stat. 24. §
5. Ann. c. 16.

IV. And be it further Enacted, That all Actions of Trespafs *quare Clausum fregit*, all Actions of Trespafs, Detinue, Action of Trover, and Replevin for taking away of Goods and Cattle, all Actions of Account and upon the Case, (other than such Accounts as concern the Trade of Merchandize, between Merchant and Merchant (a), their Factors and Servants) all Actions of Debt, grounded upon any Lending or Contract without Specialty (b); all Actions of Debt for Ar-

Actions of Trespafs
&c. to be commen-
ced within Three
Years, after the End
of this Session, or
Six Years after the
Cause of such Ac-
tion,

(a) Accounts open and current only, are within this Exception; but if stated and a Sum certain is agreed to be due to One of the Merchants, who neglects to bring his Action within the Time limited, he is barred by the Statute, 2. Saurd. 124—127. 1 Lev. 287. 298. 1 Vent. 89. 1 Mod. 270. 2 Med. 312. 1. Vern. 456. Nor does the Exception extend to any other than Actions of Account, Carth. 226. Nor to Bills of Exchange—which are barred by the Statute, Carth. 3. 226 unless the Drawee be absent beyond Seas, 2. Stra. 836.

(b) On Plea of *Solvit ad diem* to Bond of 20 Years standing and no Interest paid, tho' out of the Statute yet Length of Time will be presumptive Proof of Payment. So in Chancery Oblige of a Bond of 20 Years standing was refused any Relief, 1. Chan. Rep. 78, 83, 106.

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rearages

rearages of Rent (*c*), and all Actions of Assault, Menace, Battery (*d*), Wounding, and Imprisonment, or any of them which shall be sued or brought, at any Time after the End of this present Session of *General Assembly*, shall be commenced and sued, within the Time and Limitation hereafter expressed, and not after; (*that is to say*) The said Actions upon the Case (other than for Slander) (*e*), and the said Actions for Account, and the said Actions for Trespafs, Debt, Detinue, and Replevin for Goods or Cattle, and the said Action of Trespafs *quare Clausum fregit*, within Three Years next after the End of this present Session of *General Assembly*, or within Six Years next after the Cause of such Action or Suits, and not after: And the said Actions of Trespafs, of Assault, Battery, Wounding, Imprisonment, or any of them, within Six Months next after the End of the present Session of *General Assembly*, or within One Year next after the Cause of such Actions or Suit, and not after; and the said Action upon the Case for Words, within Three Months after the End of the present Session of *General Assembly*, or within Six Months next after the Words spoken, and not after.

Battery, &c. within Six Months, &c.

Words within Three Months, &c.

Any of said Actions, being reversed by Error or in Arrest of Judgment, may be commenced *de novo*, within One Year.

In Actions of Trespafs *quare Clausum fregit*, Defendant may plead a Disclaimer, &c.

V *And be it further Enacted*, That if in any of the said Actions or Suits, Judgment be given for the Plaintiff, and the same be reversed by Error, or a Verdict pass for the Plaintiff, and upon Matter alledged in Arrest of Judgment, the Judgment be given against the Plaintiff, that he take nothing by his Pleint, Writ, or Bill; or if any the said Actions shall be brought by Original, and the Defendant therein be outlawed, and shall after reverse the Outlawry; that in all such Cases the Party Plaintiff, his Heirs, Executors, or Administrators, as the Case may require, may commence a new Action or Suit from Time to Time, within One Year after such Judgment reversed, or such Judgment given against the Plaintiff, or Outlawry reversed, and not after.

VI. *And be it further Enacted*, That in all Actions of Trespafs *quare Clausum fregit*, hereafter to be brought, wherein the Defendant or Defendants shall disclaim, in his or their Plea, to make any Title or Claim to the Land in which the Trespafs is, by the Declaration, supposed to be done, and the Trespafs be by Negligence or involuntary, the Defendant or Defendants shall be admitted to plead a Disclaimer, and that the Trespafs was by Negligence or involuntary, and a Tender or Offer of sufficient Amends for such Trespafs before the Action brought, whereupon, or upon some of them, the Plaintiff or Plaintiffs shall be enforced to

(*c*) Debt for Arrearages of Rent on Lease by Indenture is out of the Statute because the Indenture is equal to a Specialty, but Rent reserved on Parol Leases is barred, 2. Saund. 66.

(*d*) 5. Mod. 74. 1 Lev. 31. 2 Salk. 423.

(*e*) Slander of Title is not not barred, for the Slander intended is to the Person, Cro. Car. 141. Palm. 530. 1 Jon. 196.

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Cro. Car. 141.

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join Issue, and if the said Issue be found for the Defendant or Defendants, or the Plaintiff or Plaintiffs shall be non suited, the Plaintiff or Plaintiffs shall be clearly barred from the said Action or Actions, and all other Suits concerning the same.

VII. *And be it further Enacted*, That in all Actions of Trespafs, Actions for Assault and Battery, and all Actions for slanderous Words, to be sued or prosecuted by any Person or Persons after the End of this present Session of the *General Assembly*, if the Jury, upon the Trial of the Issue in such Action, or the Jury that shall enquire of the Damages, do find or assess the Damages under Forty Shillings, then the Plaintiff or Plaintiffs in such Action, shall have and recover only so much Costs as the Damages so given or assessed, amount unto, without any further Increase of the same: And if more Costs in any such Action be awarded, the Judgment shall be void, and the Defendant acquitted from the same. *Provided*, That if the Judge at the Trial of any Action of Assault and Battery, or Action of Trespafs, shall certify under his Hand upon the Back of the Record, that the Assault was sufficiently proved, or that the Freehold and Title of the Land, mentioned in the Plaintiff's Declaration, was chiefly in Question, or that the Trespafs was voluntary and malicious, the Plaintiff, in such Case, shall recover his full Costs, though the Jury should find Damages to be under Forty Shillings. *(f)*

In Actions of Trespafs, &c. no more Costs than Damages to be given,

unless the Judge certify, &c.

VIII. *Provided nevertbeless*, That if any Person or Persons that is or shall be intitled to any such Action of Trespafs, Detinue, Action of Trover, Replevin, Actions of Account, Actions of Debt, Actions of Trespafs for Assault, Menace, Battery, Wounding or Imprisonment, Actions upon the Case for Words, be or shall be at the Time of any such Cause of Action given or accrued, fallen or come within the Age of Twenty One Years, Feme Covert, Non Compos Mentis, imprisoned or beyond the Seas; That then such Person or Persons shall be at Liberty to bring the same Actions, so as they take the same within such Times as are before limited, after their coming to, or being of full Age, Discover, of sane Memory, at large, and returned from beyond the Seas, as by other Persons having no such Impediment, should be done.

Actions of Trespafs, &c. accruing to Minors, may be brought after their coming to full Age.

IX. *And be it further Enacted*, That if any Person or Persons, against whom there is or shall be any Cause of Suit or Action of Trespafs, Detinue, Actions of Trover or Replevin, for taking away any Goods or Cattle, or of Action of Account, or upon the Case, or of Debt, grounded upon any Lending or Contract without Speciality, of Debt for Arrearages of Rent, or Assault, Menace, Bat-

Actions of Trespafs, &c. may be brought against Persons beyond the Seas, after their Return.

(f) If the Action be of a mixed Nature as for Words and Conspiracy or any other Wrongs, the Case is out of the Statute of Limitations, and Plaintiff shall have Costs as usual, Cro. Car. 141. 163. 307. 1 Salk. 206.

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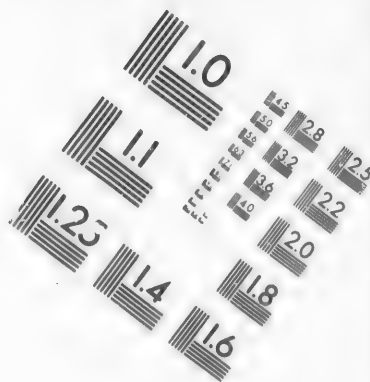
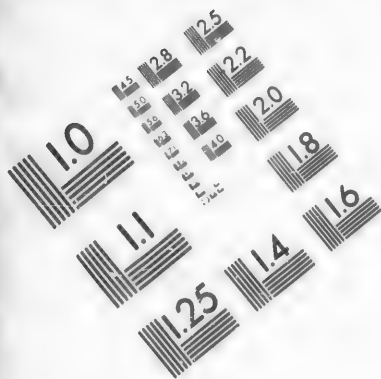
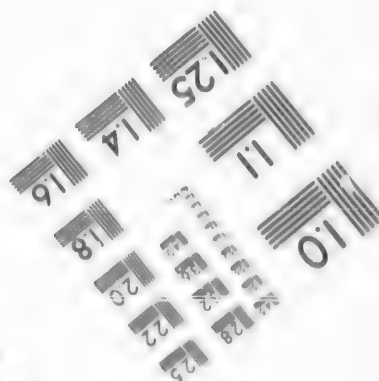
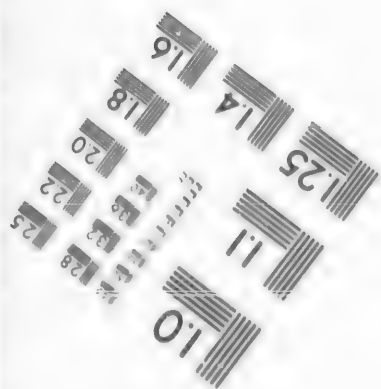
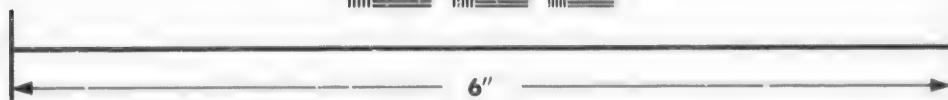
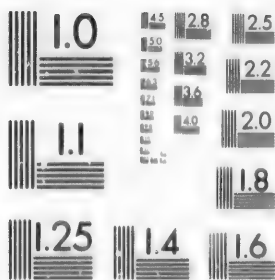


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tery, Wounding, and Imprisonment, or any of them, be or shall be, at the time of any such Cause of Suit or Action given or accrued, fallen or become, beyond the Seas, that then such Person or Persons who is or shall be intitled to any such Suit or Action, shall be at Liberty to bring the said Actions against such Person and Persons, after their Return from beyond the Seas, so as they take the same after their Return from beyond the Seas, within such Times as are respectively limited for the bringing of the same by this Act.

A Legacy is not within the Statute, 1. Vern. 256. Debt for an Escape is not barred, 1. Saund. 37. 1. Lev. 191. Debt on Award is out of the Statute, 1. Sid. 415. 1. Lev. 273.

In Equity, if Lands are subjected to Debts by Will or Deed, Debts barred by the Statute shall be paid, 1. Salk. 154. 2. Vern. 141.

If Debt is acknowledged and *Payment promised* after the Six Years, it brings the Debt out of the Statute 1. Salk. 28, 29. but 2. Vent. 151. bare owning the Debt is not sufficient.

If Debtor or his Executor after the Six Years, advertise in a News Paper that all Persons having Debts due, &c. shall be paid, this will revive a Debt due by Note, or a Book Debt, tho' barred by the Statute. Abr. Eq. 305. Andrews versus Brown.

A Trust is not within the Statutes of Limitation, Eq. Abr. March. 129. pa. 303.

The Statute of Limitations is not pleadable in the Court of Admiralty or Spiritual Court, 6. Mod. 25, 26. 2. Salk. 424.

In 2. Salk. 424. 6. Mod. 25. Doubted whether Statute of Limitations was a good Plea to a Suit in the Admiralty for Mariners Wages, being Property determinable at Common Law and merely indulged to the Admiralty Jurisdiction. But by Eng. Stat. 4 & 5. Ann. c. 16. it is enacted, "That all Actions in the Court of Admiralty for Seamen's Wages, shall be commenced and sued within Six Years next after the Cause of such Suits shall accrue, and not after."

Suing out an Original will prevent a barring by the Stat. Carth. 136. 2. Salk. 420. 3. Mod. 311.

C A P. XXV.

An Act to prevent unnecessary Firing off *Guns*, and other *Fire Arms*, in the Town and Suburbs of *Halifax*.

E it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That if any Person or Persons, of what Age or Degree soever, from and after the Publication of this Act, shall unnecessarily fire out of any Gun, Fusce, Musket, Pistol, or other Fire Arm, in any of the Houses, Streets, Lanes, Wharves, Yards, or Gardens in the Town or Suburbs of *Halifax*, every Person so offending, upon Conviction thereof, upon the Oath of One or more credible Witnesses, before any one of His Majesty's Justices of the Peace, shall forfeit the Sum of Ten Shillings, to be levied by Warrant of Distress from such Justice, on the Offender's Goods and Chattels, and for Want of Goods or Chattels, such Offender

Persons firing any Guns, &c. in the Town of Halifax

forfeit 10s.

Multaneously shooting at any Person in any Dwelling House, &c. in the Prov. Act. 12 Geo. 2. c. 13. Sect. 21. Felony without Clergy.

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ender shall be committed to Gaol for the Space of Twenty Four Hours.

II. *Provided* that no Prosecution for Breach of this Act shall be admitted, unless Complaint be made thereof within Twelve Hours, at least, after the Offence committed.

Prosecution in
Twelve Hours.

III. All Forfeitures arising by Virtue of this Act, shall be One half to him or her who will prosecute for the same, and the other to the Use of this His Majesty's Government.

One Half to the
Prosecutor, the
other to the Go-
vernment.

C A P. XXVI.

An A C T directing the *Guardianship of Minors.*

*** *E* it Enacted by His Excellency the Governor, Council, and
B *Assembly, and by the Authority of the same it is hereby Enacted,*
*** That from and after the Publication hereof, where any
Person shall have Children under the Age of Twenty One
Years, and not married at the Time of his Death, it shall be law-
ful for the Father of such Children, whether born at the Time of
the Decease of the Father, or at that Time *en Ventre sa mere*, or
whether such Father be within the Age of Twenty One Years, or
of full Age, by Deed executed, or by his last Will and Testa-
ment in Writing in the Presence of two credible Witneses, to dis-
pose of the Custody and Tuition of such Children, for such Time
as they shall respectively remain under the Age of Twenty One
Years or any lesser Time, to any Persons in Possession or Remain-
der, other than Persons not Protestants: And such Disposition of
the Custody of such Children shall be good, against all Persons
claiming the Custody and Tuition of such Children; and such Per-
son, to whom the Custody of such Children shall be disposed or
devised, may maintain an Action of Ravishment of Ward, or Tres-
pass, against any Person who shall wrongfully take away or detain
such Child, and shall recover Damages in the said Action, for the
Use of such Children(a).

*Eng. Stat. 12. Car. 2.
c. 24.*
Father, at his
Death, may dispose
of the Custody of
his Children, being
Minors.

to any Persons
other than Persons
not Protestants.

Who may have
Action against Per-
sons wrongfully de-
taining them.

II. *And be it further Enacted,* That any Persons, to whom the
Custody of such Children shall be so disposed or devised, may take
into their Custody, to the Use of such Children, the Profits of all
Lands, Tenements, or Hereditaments, and also the Management
of the Goods and Personal Estate of such Children, till their respective
Age of Twenty One Years, or any lesser Time, according to such

Guardians may
take Possession of
Lands, &c. for the
use of such Minors.

(a) For the Construction of the *Eng. Stat. 12. Car. 2. c. 24.* as to the Trust and Powers
of Testamentary Guardians, and in what Cases their Authority may be revoked, and other
Guardians appointed, or Security required from Testamentary Guardians, *Vide Vaughan*
177—187. *Bedell versus Constable. Abr. Eq. 260, 261.*

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Disposition

Disposition, and may bring such Actions in Relation thereto, as such Children themselves might do if arrived at full Age^(b).

The Governor to dispose of the Custody of Children of Persons dying not Protestants.

III. *And be it further Enacted*, That whensoever any Person, not being a Protestant, shall die seized of any such Estate in Lands, Tenements, or Hereditaments, for which his Heirs should be in Ward, his Heirs being under the Age of Twenty One Years at the Time of the Death of his Ancestor, it shall be lawful for the Governor, Lieutenant Governor, or Commander in Chief of the Province for the Time being, after due Proof to him of the Death of such Person not being a Protestant, and of his Heir being so under Age, to dispose of the Custody and Tuition of such Heirs, for such Time as they shall remain under the Age of Twenty One Years, or any lesser Time, to any Persons next of Kin to the Heir, being a Protestant, if they shall apply for the same; or in Default thereof to any other Person being a Protestant as aforesaid.

The Governor, &c. to allow of Guardians chosen by Minors, &c.

2 Inst. 14. 4. Co. 126. Beverley's Case. Staundfort's Prerog. 37.

IV. *And be it further Enacted*, That the Governor, Lieutenant Governor, or Commander in Chief for the Time being, when a so often as there shall be Occasion, be and is hereby empowered allow of Guardians, that shall be chosen by Minors of the Age Fourteen Years, and to appoint Guardians for such as shall within that Age, taking sufficient Securities of all such Guardian for the faithful Discharge of the Trust, as hereinafter directed, as to account either to the Governor, Lieutenant Governor, or Commander in Chief, or Minor, when such Minor shall arrive at full Age, or at such other Time as the said Governor, Lieutenant Governor, or Commander in Chief, upon Complaint to him made shall see Cause.

Guardians to enter into Recognizance with Sureties, for educating Minors in the Protestant Religion, &c.

V. *And be it further Enacted*, That all such Persons to whom the Tuition and Custody of such Heirs shall be committed, shall first enter into Recognizance, to the Use of the said Heir, with good Sureties, before the said Governor, Lieutenant Governor, or Commander in Chief, with Condition for the Educating the said Heir in the Protestant Religion, and for the Management and Disposal of the Estates of such Heirs, to their Use and best Advantage, and for the rendering a just Account of the Profits of such Estates to the said Governor, Lieutenant Governor, or Commander in Chief, when thereto required, or to such Heirs when they shall come of full Age, and for the not committing any Waste thereupon: And such Disposition of the Custody of such Heirs shall be good against all Persons claiming the Custody or Tuition of such Heirs; and such Persons to whom the Custody of such Heirs shall be disposed as aforesaid, may maintain an Action of Ravishment of Ward or Trespass.

(b) Guardians may make Leases of Minor's Lands, *Vide Co. Lit. 88. Vaugh. 18. L. b. Sect. 123, 124. Bro. Tit Gard. 70. Tit. Gardian 19. 2. Ro. Ab. 41. Cro. Ja. 55, 56* and such Leases are voidable only by the Infant but not void. 2. Ro. Ab. 256. Guardian may make Partition of Lands and it shall bind the Infant, if the Partition be equal.

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pass, against any Persons who shall wrongfully take away or detain such Heirs, for the Recovery of such Heirs, and shall recover Damages in the said Action, for the Use of such Heirs.

VI. *And be it further Enacted*, That such Person, to whom the Custody of such Heirs shall be so disposed, may take into their Custody, to the Use of such Heirs, the Profits of all Lands, or Tenements, and also the Management of the Goods and Personal Estate of such Heirs, till their respective Age of Twenty One Years, or any lesser Time, according to such Disposition, and may bring such Actions in Relation thereunto as such Heirs might do, if arrived at full Age.

and may take in their Custody the Profits of all Lands &c. of such Minors.

VII. *And be it further Enacted*, That if such Person to whom such Grant shall be made of the Custody of such Children, shall die before he hath yielded an Account unto the said Heirs, of the Profits of such Lands or Tenements, and the Management of such Goods and Chattels, deducting all necessary and just Charges, the Heirs, Executors, or Administrators of such Guardian, shall be liable, and yield a full Account unto the said Heir, his Executors and Administrators, of such Profits, Goods, and Chattels, Real and Personal, so received by the Guardian, for the Benefit of the said Heirs, deducting all necessary and just Charges as aforesaid, so far as they shall have Assets from the said Guardian, or in his Right at the Time of Demand of Satisfaction for the same; and if the said Children shall die before they shall attain to their Age of Twenty One Years, it shall be lawful for the Executors or Administrators of such Children to call the Persons so trusted for the Benefit of them, and the Heirs, Executors, or Administrators, to an Account for the same(c).

If the Guardian die before he hath accounted for such Profits, his Heirs, &c. liable to account with the Heir.

VIII. *Provided always*, That this Act shall not extend to discharge any Apprentice from his Apprenticeship, or such poor Children, as may hereafter be bound out by the Overseers of the Poor, or such Children as may hereafter be found proper Objects of their Care, as is provided for by Law.

This Act n extend to discharge Apprentices, &c

IX. *And forasmuch as it often happens, that Children are not born till after the Death of their Fathers, and also have no Provision made for them in their Wills, Be it therefore further Enacted by the Authority aforesaid*, That as often as any Child shall happen to be born after the Death of the Father, without having any Provision made in his Will, every such Posthumous Child shall have Right and Interest in the Estate of his or her Father in like Manner as if he had died Intestate(d), and the same shall accordingly be assigned and set out

Provision for Posthumous Children

(c) For what Acts Guardians are accountable, vide 2. Inst. 305, 306, 413. Bro'. Tit. Disfeisin. 05. Co. lit. 57. b. 271. a. 2. Inst. 134. 1. Ro. Abr. 711.

(d) By Eng. Stat. 10. & 11. Will. 3. c. 16. Sect. 1. Posthumous Children may take Contingent Remainders, as if born in the Life-time of the Father, altho' no Estate be limited, in Settlements, to preserve Contingent Remainders until the Children are born.

as the Law directs for the Distribution of the Estates of the Intestates.

C A P. XXVII.

An A C T for confirming the past Proceedings of the Courts of Judicature, and for regulating the further Proceedings of the same.

Times established
for holding the
Supreme Court, and

E it Enacted by the Governor, Council and Assembly, and by the Authority of the same it is hereby Enacted, That His Majesty's Supream Court, Court of Affize, and General Gaol Delivery, shall be held and kept at the usual Times and Places, (*that is to say*) on the last Tuesday in the Month of *October*, and on the last Tuesday in the Month of *April*, in every Year, in the Town of *Halifax*; and that the Court of General Sessions of the Peace shall be held quarterly as usual in every Year, in the said Town, *that is to say*, on every First Tuesday in the Months of *December, March, June and September*; and that the Inferior Court of Common Pleas, shall be held as usual on such First Tuesday in the said Months of *December, March, June and September*.

the Inferior Court
of Common Pleas.

Former Proceedings
confirmed.

II. *And be it further Enacted*, That all Rules and Orders, Proceedings, Pleadings, Sentences, Verdicts and Judgments, in the said Courts respectively, and all Executions awarded thereon, shall be, and are hereby ratified and confirmed. And all Proceedings and Judgments heretofore had and made, before any Two Justices, or One Justice, are hereby ratified and confirmed.

The remaining Part of this Act was temporary and is expired.

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At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Second Day of *October*, *Anno Domini* 1758, and in the Thirty Second Year of the Reign of our Sovereign Lord GEORGE the Second of *Great Britain, France, and Ireland*, King, Defender of the Faith, &c. and there continued by Prorogation until the *First* Day of *August*, *Anno Domini* 1759, and in the Thirty Third Year of His said Majesty's Reign; being the Second Session of the First General Assembly convened in the said Province.

C A P. I.

An A C T for regulating and maintaining an *House of Correction* or *Work House* within the Town of *Halifax*, and for binding out *Poor Children*.

HERE AS by an Act of the General Assembly of this Province, intituled, An Act for erecting an House of Correction or Work House within the Town of *Halifax*, made and passed at their Session begun and holden at *Halifax* the Second Day of *October*, One Thousand Seven Hundred and Fifty Eight, the Sum of Five Hundred Pounds of the Monies then in the Treasury of the Province, collected for the Duties on Spirituous Liquors, was appropriated for erecting an House of Correction or Work House within the Town of *Halifax*: Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That the Overseers of the Poor of the Town of *Halifax*, be, and accordingly they hereby are authorised and empowered, when and so soon as the said House of Correction shall be built and finished, to agree with some discreet and fit Persons to be the Master and Keeper, and needful Assistants for the Care of the same; and to provide, as there shall be Occasion, suitable Materials, Tools, and Implements, necessary and convenient for keeping to work such Persons as may be committed to the said House; and generally, to inspect and direct the Affairs of the said House; and

Preamble,

Overseers of the
Poor to
Keeper, &
Workhouse,

and to pay
the Cost
of

from Time to Time, to make such Rules and Orders as they shall judge best for the good Government thereof.

Justices to commit
Outlaw.

II. *And be it further Enacted*, That it shall and may be lawful for the Justices of the Peace in their General Sessions, or for any one Justice of the Peace out of Court, to send and commit to the said House of Correction, to be kept, governed, and punished according to the Rules and Orders thereof, all disorderly and idle Persons, and such who shall be found begging, or practising any unlawful Games, or pretending to Fortune telling, common Drunkards, Persons of lewd Behaviour, Vagabonds, Runaways, stubborn Servants and Children, and Persons who notoriously mispend their Time to the Neglect and Prejudice of their own or their Family's Support; upon due Conviction of any of the said Offences, or Disorders.

Keeper to set Off-
sceners to work;

and to punish them
by Whipping.

III. *And be it further Enacted*, That the Master or Keeper of the said House of Correction, shall have Power and Authority to set all such Persons as shall be duly sent or committed to his Custody, to work and labour, if they be able, for such Time as they shall continue and remain in the said House; and to punish them by putting Fetters and Shackles upon them, if necessary, and by moderate Whipping, not exceeding Ten Stripes at once, which shall be inflicted at their first coming in, and from Time to Time afterwards, at his Discretion, in Case of their being stubborn or idle, and neglecting to perform such reasonable Tasks as shall be assigned them, and to abridge them of their Food, as the Case may require, until they be reduced to better Behaviour.

Persons committed
not to be charge-
able to the Go-
vernment.

IV. *And be it further Enacted*, That no Person committed to the said House of Correction, shall be chargeable to the Government for any Allowance, either at going in or coming out, or during the Time of their Abode there: But shall be maintained out of their Earnings, and the Remainder thereof shall be accounted for, by the Master or Keeper of the said House; who shall keep an exact Account thereof, and render the same upon Oath, if required, to the said Overseers when demanded.

Idiots &c. to be taken
Care of and re-
lieved by the keeper.

V. *And be it further Enacted*, That if any Person or Persons committed to the said House of Correction be Idiots, or Lunatic, or Sick and weak, and unable to work, they shall be taken Care of and relieved by the Master or Keeper of the said House, who shall keep an exact Account of what Charges he shall necessarily be at therein; to be rendered to the said Overseers, upon Oath, if demanded.

Pay of the Keeper
&c. how to be de-
frayed.

VI. *And be it further Enacted*, That the Pay of the said Master or Keeper of the said House of Correction, and the Charge for any Materials,

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Materials, Tools, or Implements purchased as before mentioned, or arising by the Relief of Persons unable to work, and other necessary Expences of the said House, shall be defrayed out of the Surplus of the Earnings of the Labour done in the said House, if the same shall be sufficient therefor; or otherwise, shall be advanced out of Money in the Treasury of the Province, to be issued by Warrant under the Hand and Seal of the Governor or Commander in Chief for the Time being, and His Majesty's Council of this Province, to be reimbursed to the said Treasury out of such Profits as may afterwards arise as aforesaid.

VII. *And be it further Enacted*, That the said Overseers of the Poor shall take Order from Time to Time, by and with the Consent of Two or more Justices of the Peace for the County of Halifax, for setting to work the Children of all such, whose Parents shall not, by the said Overseers, or the greater Part of them, be thought able to keep or maintain them, or any poor Orphans; or by Indenture to bind any such Children or Orphans as aforesaid, to be Apprentices, where they shall see convenient, till such Male Child shall come to the Age of Twenty One Years, and such Woman Child to the Age of Eighteen Years, or the Time of her Marriage; the same to be as effectual to all Purposes as if such Child were of full Age, and by Indenture of Covenant had bound him or herself. *Provided always*, That one of the Conditions of said Indentures shall be, that if the said Master or Mistress of said Apprenticeship or other Person to whom said Indenture may be assigned, shall transport or carry said Apprentice out of this Province, to reside or dwell in any other Colony or Plantation, that then the said Indenture shall be void and of none Effect, and the said Apprentice shall thenceforth be discharged from any further Service to his said Master, Mistress or Assigns. *Provided also*, That the Children maintained and supported in the Orphan House at the Expence of the Crown, shall remain and be under the Direction of the Governor as heretofore, and bound out in such Manner as he shall order and direct.

Poor Children to be bound Apprentices by the Overseers of the Poor, with the consent of two Justices.

Proviso not to carry them out of the Province.

Children in the Orphan House excepted.

Vide an Addition to this Act, 3. Geo. 3. c. 8. s. 1. Sess.

C A P. II.

An ACT for regulating and maintaining a Light House on *Sambró* Island.

WHEREAS by an Act of the General Assembly of this Province, intitled An Act for erecting a Light House at the Entrance of the Harbour of HALIFAX, made and passed at their Session begun and holden at Halifax, the Second Day of October, 1758, the Sum of One Thousand Pounds out of the Monies then in the Treasury of the Province, collected from the Duties on Spirituous Liquors, was appropriated for the erecting a Light House on the Island commonly

Preamble.

All Vessels, except
Coasters &c. to
pay a Duty of Six
Pence per Ton.

Vessels belonging
to Freeholders in
the Province, to
pay only Four
Pence per Ton.

What Vessel's de-
emed Coasters &c.

Coasters to pay at
the Rate of 2s.
per Annum.

Monies arising by
the Duty to be ap-
plied to the Sup-
port of the Light-
house,

And the Surplus to
the Uses of the Go-
vernment.

nowly called and known by the Name of Sambrô Outer Island, at the Entrance of the Harbour of Halifax: And it was Enacted, that until such Light House should be erected the Commissioners appointed for carrying the said Act into Execution, should cause a Beacon and Light to be placed on the said Island for the Benefit of Vessels coming into the said Harbour, Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the First Day of September next, there shall be paid by the Master of every Merchant Vessel coming into or going out of the Harbour of Halifax, at her going out of the said Harbour, (other than Coasters and Fishing Vessels, and such Transport or other Vessels employed in His Majesty's Service as shall, by their Charter Party, be exempted from paying Port Charges) a Duty of Six Pence per Ton Currency, for so many Tons as shall appear to the Satisfaction of the Receiver, or by the Oath of the Master, (which Oath the said Receiver is hereby authorized to administer) to be the real Burthen thereof.

II. *Provided*, That all Ships or Vessels wholly belonging to any Person, that is a Freeholder and Inhabitant in this Province, shall only pay Four Pence per Ton: The said Duty to be paid before clearing the said Vessel, to such Person or Persons as shall hereafter be appointed by His Excellency the Governor for that Purpose; who are hereby authorized to demand and receive the same, and upon Refusal of Payment, to sue for and recover the said Duty before Two of His Majesty's Justices of the Peace, or in Case the Sum shall not exceed Forty Shillings, before One Justice.

III. *And be it further Enacted*, That no Vessel shall be deemed a fishing Vessel, within the meaning of this Act, excepting such as shall be wholly employed in that Business, nor shall any Vessel be deemed a Coaster, excepting such as shall be wholly employed within the Province.

IV. *And be it further Enacted*, That every Coasting Vessel shall pay, in Lieu of the said Duty, at the Rate of Twenty Shillings per Annum, and no more, to be received and recovered in Manner as aforesaid.

V. *And be it further Enacted*, That all Monies arising by the aforesaid Duty shall be paid into the Treasury of the Province, and be applied towards the Support of the said Light House; to be issued for the said Purpose, by Warrant under the Hand and Seal of the Governor or Commander in Chief for the Time being of the Province; and in Case there be more Monies raised than is necessary for the Support of the said Light House, the Surplusage to be applied to the Uses of the Government.

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C A P. III.

An ACT for the Quieting of Possessions to the Protestant Grantees of the Lands formerly occupied by the French Inhabitants, and for preventing vexatious Actions relating to the same.

***** HEREAS this Province of Nova Scotia or Acadie, and the Property thereof, did always of Right belong to the Crown of England, both by Priority of Discovery and ancient Possession, and that no Grant of Property to any of the Lands or Territories belonging thereto, is of any Validity, or can give the Possessor thereof any legal Right or Title to any Part thereof, unless derived from thence;

Preamble.

And Whereas by a Treaty of Peace concluded at Utrecht, in the Year of our Lord One Thousand Seven Hundred and Thirteen, between His most Sacred Majesty ANNE of Glorious Memory, Queen of Great Britain, &c. And his most Christian Majesty, it was concluded and agreed on, that all Nova Scotia, or Acadie, with it's antient Boundaries, and all other Things in those Parts which depend on the said Lands, together with the Dominion, Property, and Possession of the said Lands and Places, and all Right whatsoever by Treaties or any other Way attained, which the most Christian King, the Crown of France, or any other the Subjects thereof, had to the Lands and Places, and to the Inhabitants of the same, are yielded and made over to the Queen of Great-Britain, and to her Crown for ever;

And whereas at the Time of that Cession, many of the French King's Subjects did reside and dwell within this His Majesty's Province of Nova Scotia, and did not remove from the same, within the Space of Twelve Months, according to the Limitation of that Treaty, whereby they and their Posterity became Subjects of the Crown of Great Britain in every respect; notwithstanding which, contrary to their Allegiance, they began from that Time, and continued at all Times to aid, assist, and support, and join with His Majesty's Enemies; and altho' His Majesty, notwithstanding their manifest Treasons and Rebellion, in order to extend His Indulgence towards them, and if possible to reclaim and reduce them to His Obedience, was most graciously pleased, by His Royal Instructions to the Governors of this Province, to declare that the said French Inhabitants should have the peaceable Possession of such Lands as were under their Cultivation, Provided, That they the said Inhabitants should within three Months from such Time as should be thought proper by the Governor, take the Oath of Allegiance appointed to be taken by the Laws of Great Britain, and likewise behave themselves as became good Subjects: And altho' several Proclamations had hitherto been issued by His Majesty's Governors of this Province, requiring their Oath of Allegiance, yet so far were they

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they from obeying the same, that by a general Deputation of their principal Men, before His Majesty's Governor and Council, they absolutely refused to take the said Oaths so required of them, but on the contrary, did still continue to aid, assist, and join with His Majesty's Enemies: and Five Hundred of them were found in Arms, within the Fort of Beaufejour when the same was surrendered, and many of them, in Company with the Indian Savages, did frequently commit many horrid and barbarous Murders on His Majesty's Protestant liege Subjects, who were endeavouring to settle themselves on the Lands within this Province, whereby the Progress of the Settlement of this Province, with his Majesty's Protestant Subjects, was retarded, and the Crown put to an excessive great Expence, to defend and protect them; and also by such their treacherous Practices, His Majesty's most gracious Designs, as well towards them, as also towards His said Protestant Subjects, were frustrated; and had they not been timely removed by the Prudence and Vigilancy of his Excellency the present Governor, from the said Lands and Territories, into other his Majesty's Dominions, this invaluable Province, during the Course of this War, must inevitably have fallen into the Hands of his Majesty's Enemies the French;

And whereas since the Removal of the said French Inhabitants, His Excellency the Governor, in order to make an effectual Settlement in this Province, and to strengthen the same, has been pleased to make Grants of Townships to many substantial and industrious Farmers, Protestants, His Majesty's Subjects of the Neighbouring Colonies, in which Townships are contained some of the Lands formerly occupied by the said French Inhabitants; and as many other substantial and industrious Farmers, Protestants, are daily applying for Grants of Townships, wherein such Lands will be comprehended: And as some Doubts have arisen among the said Persons intending to settle the said Lands, concerning the Title of the said French Inhabitants to any of the said Lands, that may fall within their Townships: And altho' the said French Inhabitants have not, nor ever had, any legal Right or Title to the said Lands, derived from the Crown of Great Britain, yet, in order to remove such Doubts, and to prevent any troublesome or vexatious Suits of Law that may hereafter be brought for the Maintenance of any such Right or pretended Right to any of the Lands within this Province, formerly possessed or occupied by the said French Inhabitants; Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That no Action shall be retained in any of His Majesty's Courts of Record in this Province, for the Recovery of any of the Lands, within the same, by Virtue of any former Right, Title, Claim, Interest, or Possession, of any of the former French Inhabitants, or by Virtue of any Right, Title, Claim, or Interest, holden under or derived from them, by Grant, Deed, Will, or in any other Manner whatsoever.

II. And be it further Enacted, That when any Action shall be brought for the Recovery of any Lands within this Province, and it

No Action to be retained in any Court, for any Lands by Virtue of any Right of the former French Inhabitants.

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it shall appear upon Evidence, that the Grounds of such Action is founded upon any such Right, Title or Possession of the said *French* Inhabitants, or derived from them as aforesaid, that then this Act may be pleaded in Bar to all such Actions: And all His Majesty's Judges and Justices of the said Courts, are hereby required and enjoined, upon such Plea and Proof thereof, to dismiss such Action, and award Costs for the Defendants.

Such Actions to be dismissed, upon due Proof thereof.

C A P. IV.

An Act for the Relief of the Poor in the Town of Halifax.

WHEREAS there are, or hereafter may be, Persons residing within the Town of Halifax, who, notwithstanding their honest Endeavours for obtaining a Livelyhood, may by the Providence of God, thro' Sickneſs or otherwise, be rendered incapable of supporting themselves or Families, Be it therefore Enacted by His Excellency the Governor, Council and Assembly, and by the Authority of the same it is hereby Enacted, That a Sum not exceeding One Hundred Pounds, be paid out of the Public Treasury of this Province, by Warrant under the Hand and Seal of His Excellency the Governor, into the Hands of the Overseers of the Poor of the Town of Halifax for the Time being; to be by them applied, within One Year from the Receipt thereof, towards the Relief and Assistance of such Persons as shall appear to them, upon strict Inquiry and Examination, to be proper Objects of such Charity.

Preamble.

One Hundred Pounds to be paid out of the Treasury, to the Overseers of the Poor, for the Relief of the Poor, within one Year.

II. *And be it further Enacted*, That the said Overseer of the Poor are hereby authorized to open Subscriptions, and collect and distribute such Sums as shall be subscribed by any well disposed Persons, for such charitable Uses. And the said Overseers shall, and are hereby obliged to keep a fair Account of the Receipts and Distributions of all Monies, which shall be paid into their Hands for such Purposes, and upon the Expiration of their said Office, lay the same before His Excellency the Governor, and His Majesty's Council for their Inspection, and what Balance may remain in the Hands of the said Overseers at the Expiration of their Office, shall be by them paid into the Hands of their Successors.

Overseers to collect Money by Subscription for charitable Uses.

Vide an Addition to this Act, 33. Geo. 2. c. 12. 2. Sect.

C A P. V.

C A P. V.

An A C T for regulating *Petit Juries*, and declaring the Qualification of *Jurors*.Qualification of
Petit Jurors.

By Eng. Stat.

2. Hen. 5. c. 3.

The yearly Value of
the Freehold is Forty
Shillings.

*** E. it Enacted by His Excellency the Governor, Council, and
 *** B *** Assembly, and by the Authority of the same it is hereby Enacted,
 *** That from and after the First Day of October next, no
 Person shall be qualified to serve as a Petit Juror, un-
 less he hath a Freehold Estate of the Value of Twenty Shillings a
 Year, or is possessed of Ten Pounds in personal Estate (a).

Provoſt Marshal to
make a Liſt of Per-
ſons qualified, and
return it to the
Clerk of the Infe-
rior Court, who
ſhall make Ballots
for each Perſon, to
be kept in a Box.

II. And be it further Enacted, That the Provoſt Marshal or his Deputy ſhall, as ſoon as conveniently may be, make out a Liſt of all Perſons qualified as aforeſaid, who have dwelt and reſided within the Town and County of *Halifax*, for three Months preceding, and return the ſame into the Clerk's Office of the *Inferior Court of Common Pleas* for ſaid County, who ſhall thereupon make out a Number of Ballots of an equal Size, One for each Perſon, inſcribing thereon the Perſon's Name; which Ballots ſhall be ſafely kept in a Box, to be lockt up by him, and ſhall be opened Ten Days before the Sitting of ſaid Court in the Preſence of the Firſt Juſtice, and Twenty Four Ballots for the Juries of the *Inferior Court*, and the Court of *General Quarter Sessions of the Peace*, ſhall be drawn from thence by the Clerk of ſaid Court, and a Liſt of their Names ſhall be taken and delivered to the Provoſt Marshal or his Deputy, who ſhall ſummon the Perſons ſo ballotted, to attend at the next Sitting Court, and they ſhall be accordingly entered on the Venires and returned to ſerve as Jurors at the ſaid Court; and then the ſaid Box ſhall be delivered to the Clerk of the *Supream Court*, and Thirty Six Ballots ſhall be drawn, in manner aforeſaid, by the Clerk of ſaid Court in the Preſence of the Chief Juſtice, Ten Days before the Sitting of ſaid Court, and the Perſons ſo drawn, ſhall be ſummoned, entered on the Venire iſſuing from that Court, and returned as aforeſaid; and ſo from Court to Court till the whole Number of Freeholders and other Perſons qualified as aforeſaid, ſhall have ſerved as Jurors.

Method of drawing
the Ballots for
each Court.

Brit. Stat. 3. Geo. 2.
c. 25. Sect. 11. 12.
13.

Method of supply-
ing the Places of
Perſons who cannot
attend.

III. *Provided*, That if upon the Return of the Venires into the *Supream Court*, *Inferior Court*, or *General Quarter Sessions*, it ſhall appear to any of ſaid Courts, that the Perſons ſo ballotted for, and ſummoned by the Provoſt Marshal, cannot attend by Reaſon of

(a) By Eng. Stat. 23. Hen. 8. c. 13. In Cities, &c. Every natural-born Subject, &c. worth in Goods £40. ſhall be admitted in Trials of Felony, &c. altho' he have no Freehold. No yearly Value of the Freehold, required to qualify a Juryman, was fixed by the Common Law, and therefore a Freehold worth but 20s. &c. hath been adjudged ſufficient in Cities where the Eng. Statutes do not require a Freehold of greater Value. 2. Hale Hist. P. C. 473. Cro. Eliz. 413.

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Raym. 367.

some unavoidable Accident, that then and in such Cases, the Chief Justice at the *Supream Court*, or the First Justice at the *Inferior Court* or *General Quarter Sessions*, shall order their respective Clerks; in open Court, to draw out as many Ballots out of said Box, as will amount to the Number that cannot attend, who shall be immediately summoned by the Provost Marshal to attend as Jurors, and Ballots for the Names of those that are unable to attend, to be returned into the Box. And a List of all Persons qualified as aforesaid within the said Town and County, shall be taken by the said Provost Marshal or his Deputy from Year to Year, and returned as aforesaid, or as often as the said Lists shall be fully drawn.

IV. *And be it further Enacted*, That every Person summoned and returned as aforesaid to serve as a Juror, who (without sufficient Reason to be judged of by the Court) shall refuse or neglect to give his Attendance at the Court whereunto he is notified and summoned to appear, shall forfeit the Sum of Five Pounds, to be paid into the Hands of the said Clerk; and on his neglecting to pay the said Fine, before the End of the Term, it shall be levied by Warrant of Distress, to be issued from the said Court; and for any wilful Absence or Non Attendance on his Duty during the Sitting of the said Court, he shall forfeit for every Day's Neglect, the Sum of Ten Shillings, to be paid or levied in Manner aforesaid; and the Fines so collected by the Clerks aforesaid, shall be paid by them to the Treasurer of the Province for His Majesty's Use(b).

Persons summoned, and refusing or neglecting to attend (without sufficient Reason to be allowed by the Court) to forfeit £5.

and for every Day's Neglect 10s.
8. C. 41. ...
2. Inst. 242.
2. Hale Hist. P. C. 309.

V. *Provided always*, That if by Reason of Challenge or otherwise, there shall not appear a sufficient Number of good and lawful Men to make up a Petit Jury or Juries, then and in such Case, the said Jury or Juries shall be filled up *de talibus Circumstantibus*(c), to be nominated and returned by the Provost Marshal or his Deputy; and where the Provost Marshal or his Deputy is concerned, or related to either of the Parties in any Case, then the Jurors shall be nominated and returned by the Coroner.

If a sufficient Number do not appear, the Juries to be filled up by *Tales*.
By Eng. Stat.
3. Geo. 2. c. 25.
the Use of a *Tales* in Civil Causes in England seems to be taken away.

VI. *Provided also*, That no Persons ballotted for as Jurors for any Court, shall at the same Court, be returned to serve as Grand Jurors.

Persons ballotted as Jurors not to be returned on the Grand Jury.

VII. *Provided also*, That the Members of His Majesty's Council, the Members of the Assembly, the Treasurer of the Province, Register of Deeds, Chief Surveyor of the Crown Lands, Secretaries,

Persons excused from serving as Jurors.

(b) By Eng. Stat. 3. Geo. 2. c. 25. Sect. 13. Juror not appearing on Proof of Summons, shall forfeit for every Default from 40s. to £5. as the Judge shall think reasonable.

(c) A *Tales de Circumstantibus* may be awarded in all Capital Cases, upon Indictment or upon Criminal Informations, by Warrant from the Attorney General, or express Assignment of the Court, before which the Inquest is taken, 1. Lev. 223. 6. Ald. 244. Raym. 367. 1. Keb. 490. pl. 30. Eng. Stat. 14. Eliz. c. 9.

Ministers, Officers of His Majesty's Customs, Naval Officer, and his Deputy, Attornies at Law, Officers of His Majesty's Courts, Commissary of the Ordnance Stores, and Surgeons, shall be excused from serving as Jurors.

Vide Additions to this Act, 33. Geo. 2. c. 9. 2. Sess. 4. Geo. 3. c. 2. 2. Sess.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Fourth Day of *December*, *Anno Domini* 1759, and in the Thirty Third Year of the Reign of Our Sovereign Lord GEORGE the Second of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. being the First Session of the Second GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT to prevent Gaming.

XXXX *E it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the Publication hereof, all Public Gaming at Cards, Dice, Tennis, Bowls, or any other Games whatsoever, and all Lotteries, and Public Gaming Tables, shall be deemed and adjudged to be Nuisances; and all Notes, Bills, Bonds, Judgments, Mortgages, or other Securities or Conveyances whatsoever, given, granted, drawn, or entered into, or executed, by any Persons whatsoever, where the Whole or any Part of the Consideration of such Conveyances or Securities shall be for any Money, or other valuable Thing whatsoever, won by Gaming or Playing at Cards, Dice, Tables, Tennis, Bowls, or other Game or Games whatsoever, or by Betting on the Sides or Hands of such as do game at any of the Games aforesaid (a), or for the reimbursing or repaying any Money knowingly lent or advanced for such*

(a) 1. Salk. 344. *Hussey versus Jacob.* & 1. Salk. 345. *Anonimus.*

Gaming

Public Gaming at Cards, &c. and all Lotteries and Public Gaming Tables, shall be adjudged Nuisances.

1. *Hawuk. P.C.* 198. All Notes, &c. for Money, &c. won by Gaming, to be void.

Eng. Stat. 9. *An.* c. 14. *Sess.* 1.

1. *Strange* 495.

(b) a Stra. knowingly lent A Parol Loan tho' it is in the

Gaming or Betting as aforesaid, or lent and advanced (*b*) at the Time and Place of such Play, to any Person or Persons so Gaming or Betting as aforesaid, or to any other Person or Persons in Trust for, or to the Use of them so Gaming or Betting, or that shall, during such Play, so Game or Bett, shall be utterly void, frustrate, and of none Effect, to all Intents and Purposes whatsoever: And that where such Mortgages, Securities, or other Conveyances, shall be of Lands, Tenements, or Hereditaments, or shall be such as incumber or affect the same, such Mortgages, Securities, or other Conveyances, shall enure and be to and for the sole Use and Benefit of, and shall devolve upon, such Person or Persons, as should or might have, or be intitled to such Lands, Tenements or Hereditaments, in Case the said Grantor or Grantors thereof, or the Person or Persons so incumbering the same, had been naturally dead, and as if such Mortgages, Securities, or other Conveyances, had been made to such Person or Persons to be intitled after the Decease of the Person or Persons so incumbering the same; and that all Grants or Conveyances, to be made for the preventing such Lands or Tenements or Hereditaments from coming to, or devolving upon such Person or Persons hereby intended to enjoy the same as aforesaid, shall be deemed fraudulent and void, and of none Effect to all Intents and Purposes whatsoever.

II. *And be it further Enacted*, That from and after the Publication hereof, any Person or Persons whatsoever, who shall by Playing at Cards, Dice, or Tables, or any other Game or Games whatsoever, or by Betting on the Sides or Hands of such as do play at any Game or Games as aforesaid, within Twenty Four Hours, or at any one Meeting or Sitting, lose to any one or more Person or Persons, so Playing or Betting, any Sum or Sums of Money, exceeding the Sum of Twenty Shillings, or any other valuable Thing or Things whatsoever beyond the Value of the Sum of Twenty Shillings, and shall pay or deliver the same or any Part thereof, the Person or Persons so losing and paying or delivering the same, shall be at Liberty, within One Month then next following, to sue for and recover the Money or Goods so lost and paid or delivered, or any Part thereof, from the respective Winner or Winners thereof, with Costs of Suit, by Action of Debt founded on this Act; to be prosecuted in any of His Majesty's Courts of Record, in which Action it shall be sufficient for the Plaintiff to alledge that the Defendant or Defendants are indebted to the Plaintiff, or received to the Plaintiff's Use, the Monies so lost and paid, or converted the Goods won of the Plaintiff to the Defendant's Use, whereby the Plaintiff's Action accrued to him according to the Form of

*Eng. Stat. 9. An.
c. 14. Sect. 2
Persons losing more
than 20s. within
24 Hours,
1. Salk. 345. Dickson
versus Parvulet.
2. Mod. 54. Hill
versus Pleasant.
3. Stra. 1079. Turner
versus Warren.*

may sue for and recover the same from the Winner within One Month

(*b*) *a* Stra. 1155. *Bowyer versus Brampton*. Innocent Indorsee of a Note for Money knowingly lent to game with, can maintain no Action against the Drawer. *a* Stra. 1249. A Carol Loan of Money to play with is not void, for the Word *Contract* is not in this Act, tho' it is in the Stat. of Usury.

this

And in case such Person shall not sue within that Time,

any other Person may sue for and recover the same within One Month after.
One Half to the Use of the Poor.

Parents, &c. of Persons under Age, may sue for Money, &c. won from them.

Eng. Stat. 16. Car. 2. c. 7. Sect. 2. & 9. Ann. c. 14. Sect. 5.
Persons winning any Money, &c. fraudulently,

to forfeit five Times the Value.
2. Stra. 1048. *Rex versus Luckup. The Penalty must be sued for, after the Conviction.*

Two Justices may order Gaming Tables to be removed, as Public Nuisances, &c.

this Act; and in Case the Person or Persons who shall lose such Money or other Thing as aforesaid, shall not, within the Time aforesaid, really and *bonâ fide*, and without Covin or Collusion, sue and with Effect prosecute for the Money or other Thing so by him or them lost and paid, or delivered as aforesaid, it shall and may be lawful to and for any Person or Persons, within One Month thereafter, by any such Action or Suit as aforesaid, to sue for and recover the same with Costs of Suit, against such Winner or Winners as aforesaid; the one Moiety thereof to the Use of the Person or Persons that will sue for the same, and the other Moiety to the Use of the Poor of the Town where the Offence shall be committed.

III. *And be it further Enacted*, That the Parent, Guardian, or Master of any Person or Persons under the Age of Twenty One Years, shall likewise be at Liberty to sue for and recover, in Manner as is before prescribed, any Money or other Thing won by Gaming from such Persons within lawful Age, and treble the Value of the Money so won, with Costs of Suit.

IV. *And be it further Enacted*, That if any Persons shall, by Fraud, unlawful Device, or ill Practice whatsoever, in playing at any Game or Games whatsoever, or by bearing a Share or Part in the Stakes, or by Betting on the Sides of such as shall play, win, or acquire to themselves, or to any others, any Money or other valuable Thing, every Person so winning or acquiring by such ill Practice as aforesaid, and being thereof convicted of any of the said Offences, upon Indictment or Information, shall forfeit five Times the Value of the Money or other Thing so won as aforesaid; such Penalty to be recovered by such Person as shall sue for the same by such Action as aforesaid.

V. *And for the better suppressing all Public Gaming Houses, it is hereby further Enacted*, That it shall and may be lawful to and for any Two or more of His Majesty's Justices of the Peace, to enter into any Public Houses suspected of keeping any Gaming Tables, and to order and direct the Keepers of such Gaming Tables, if any such shall be found therein, to remove the same within Forty Eight Hours, as a Public Nuisance; and any Person refusing or neglecting to obey the Order of such Justices, the said Justices shall have Power to break and prostrate such Public Gaming Tables, and also to require sufficient Security from Persons keeping such Public Gaming Houses, for their good Behaviour during Twelve Months, or for their Appearance at the next Quarter Sessions, there to be prosecuted for offending against this Act, and on Conviction, to be either fined or imprisoned, as the Court shall direct.

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(b) Attachment
Quakers, 1. Stra.
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criminal Prosecuti

CAP. II.

An ACT for permitting Persons of the Profession of the People called *Quakers*, to make an Affirmation instead of taking an *Oath*,

*** *E* it Enacted by His Excellency the Governor, Council, and

*** *B* *A*ssembly, and by the Authority of the same it is hereby Enacted,

*** That every Person of the Profession of the People called *Quakers*, who shall be required upon any lawful Occasion to take an Oath, shall instead of an Oath in the usual Form, be permitted to make his or her solemn Declaration or Affirmation in these Words, *to wit*.

Eng. Stat. 22. Geo. 2. c. 45. Sect. 36.

Quakers may make Solemn Affirmation, instead of taking an Oath.

"I A. B. do solemnly, sincerely, and truly declare and affirm:"

Which solemn Affirmation shall be adjudged and taken to be of the same Force and Effect, in all Places where by Law an Oath shall be required, as if such *Quaker* had taken an Oath in the usual Form.

II. *And be it further Enacted*, That every Person who shall have made such solemn Affirmation, and shall be convicted of wilfully, falsely, and corruptly, having affirmed any Thing, which if the same had been sworn in the usual Form, would have amounted to wilful and corrupt Perjury, shall incur the same Penalties as Persons convicted of wilful and corrupt Perjury.

Persons falsely affirming to be guilty of Perjury.

III. *Provided*, That no *Quaker* or reputed *Quaker* shall, by Virtue of this Act, be admitted to give Evidence in any criminal Causes (*a*), by such solemn Declaration or Affirmation as is hereby directed (*b*).

Criminal Causes excepted.

IV. *Provided*, That no Persons shall be deemed *Quakers* within the Intention of this Act, unless they shall affirm in the Form before directed, that they are of the Profession of the People called *Quakers*, and have been so for One Year then last past.

Quakers to affirm that they have been so for One Year.

V. *And be it further Enacted*, That this Act shall be deemed to be a publick Act, and be judicially taken Notice of as such.

To be deemed a Publick Act.

(*a*) By Eng. Stat. 22. Geo. 2. c. 45. Sect. 37. *Quakers* are also disqualified from serving by any Affirmation &c. on Juries, or bearing any Place of Profit from the Government.

(*b*) Attachment, for Non performance of Award cannot be grounded on Affirmation of *Quakers*, 1. Stra. 441. Nor Articles of Peace, 1. Stra. 527. Nor Appeal of Murder, tho' as between Party and Party it is a Civil Suit. 2. Stra. 856. Nor Information for a Misdemeanor, 2. Stra. 872. Affirmation of Service of a Rule to show cause by a *Quaker*, in a criminal Prosecution, was held sufficient to make the Rule absolute. 2. Stra. 1219.

C A P. III.

An ACT in Addition to an Act, intituled, An Act for the Establishment of Religious Public Worship in this Province, and for suppressing of Popery.

Preamble.

HEREAS although in and by the said Act it is Enacted, that the Sacred Rites and Ceremonies of Divine Worship, according to the Liturgy of the Church established by the Laws of England, shall be deemed the fixed Form of Worship amongst us, and the Place wherein such Liturgy shall be used, shall be respected and known by the Name of the Church of England as by Law established; and although a Church is already built, and public Worship performed therein, yet no Provision is made in the said Act for the Choice of Parish Officers, or to empower the Parishioners belonging to the said Church to raise Money, for the Support and Maintenance of such Ministers as are or shall be hereafter appointed to officiate therein, and for the Repairs of said Church; Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That the Parish of the Church commonly called and known by the Name of SAINT PAUL'S Church, shall extend and comprehend all the Lands lying and being in the Township of Halifax, hereafter to be known and called by the Name of the Parish of Saint Paul's, for and during such Time as the said Township shall consist of one Parish only, and that the Church Wardens and Parishioners of said Parish, are hereby empowered to meet as soon as convenient may be, Notice being first given of such Meeting, and the Place thereof, by the Rector of said Parish, and shall then and there chuse Twelve Officers of the said Parishioners for Vestry Men, in which Vestry shall be included the Ministers belonging to the said Church, and officiating therein; and the said Church Wardens and Vestry shall have and exercise all such Powers and Authorities, for the Benefit of the said Church, as are usually exercised by Church Wardens and Vestries in the Parish Churches in England, (a) and shall to all Intents and Purposes be, and are hereby empowered, as a Body Politic incorporate, to sue and be sued, (b) and to ask, demand, and sue for the Rents due for the

Parish of St. Paul
to comprehend all
the Lands in the
Township of
Halifax.

Church Wardens
and Parishioners
to chuse
12 Vestry Men,

who shall have the
same Powers as in
England.

(a) When met, the major Part present will bind the whole Parish. Watson's Clergyman's Law, c. 39. Right of adjourning Vestry is in the whole Assembly, 2. Stra. 1045. By Custom in England *Special Vestries* may make Rates, take the Accounts of Churchwardens, &c. but when Rates are made, the Parishioners must have Notice of the Vestry to be held for that Purpose, when all that are absent shall be concluded by a Majority of those present. Wood's Inst. Com. l. 90. If Parishioner having Right to be present, and vote in the Vestry, be shut out of the Vestry Room, Action on the Case Lies, Mod. Cases in L. & Eq. 52. 354. 1. Stra. 624.

(b) Church Wardens are a Corporation to sue for Church Goods, and to purchase Goods, for the Use of the Parish, but not a Corporation to purchase Lands, or to take by Grant. Gibb. Cod. Jur. Eccl. 215. Church Wardens cannot dispose of Goods, without Consent of the Parish. Watson's Clerg. l. c. 39. 1. Rolls Abr. 393. Cro. Jac. 274.

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An Act
for the better
regulation of the
Parish of St. Martin
in the City of London

is Enacted,
That the
Church Wardens,
and Vestrymen,
as are
amongst us,
respected and
established;
and performed
the Office of Pa-
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Wardens, and
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is hereby E-
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urchase Goods, for
by Grant. Gibb.
sent of the Parish.

Pews

Pews of said Church, for the Benefit of the Ministers and Repairs thereof, and to take and receive all Gifts, Grants, either of Lands or Money, to and for the Use of the said Parish Church, and to improve the same for the Benefit and Advantage thereof, according to their best Discretion, and the true Intent and Meaning of the Donors: And the said Meeting of the Parishioners for the Choice of Vestry Men, shall hereafter be annually on *Michaelmas Day*, on which Day shall also be chosen annually the Church Wardens for the said Church, by the said Parishioners(c).

Church Wardens
and Vestrymen to
be chosen on
Michaelmas Day
annually.

II. *And be it further Enacted*, That if any of the said Parishioners, who shall be regularly chosen into the Offices aforesaid, do refuse to serve in the same, he or they shall forfeit the Sum of Five Pounds, to be recovered by Bill, Plaint, or Information, in any of His Majesty's Courts of Record; which Forfeiture shall be to and for the Use of the said Parish Church (d).

Persons refusing to
serve, forfeit £5.

III. *And be it further Enacted*, That the said Parishioners may, by a Vote of the Majority at their annual Meeting then present, grant such Sums of Money towards the Support and Maintenance of their Minister or Ministers, or for the Repairs of the said Church, as they may think necessary; which said Vote shall be binding on all the Parishioners belonging to the said Church, and others dwelling in the said Parish, not exempted by Law from paying towards the Support of the Church of England; which Sum or Sums of Money so voted, shall be assessed in just and equal Proportions on every Parishioner, according to their several Abilities.

Parishioners may,
at their annual
Meeting, grant
Money for the
Support of their
Ministers, &c.

IV. *And be it further Enacted*, That for the greater Ease of the Parishioners, in paying in such Sums so granted, that for every yearly Grant for the Support of the Ministry, it shall be assessed by the Church Wardens and Vestry in two equal Assessments, one Half to be paid in the first Six Months, and the other Half in the last six Months.

to be paid every
Half Year

V. *And be it also Enacted*, That the said Church Wardens shall, and they are hereby impowered, to collect and receive such

Church Wardens to
collect the Rates.

(c) By Custom Parish may chuse both the Church Wardens, 2. Roll's Abr. 287. In London both the Church Wardens are appointed by the Parish. Id. Raym. 138. But by Can. 89. the Minister shall chuse One, and the Parishioners another. In new Churches the Canon must take place, because no Custom can be pretended, unless saved by Act of Parliament. Gibson Cod. Jur. Eccl. 215.

(d) By Eng. Stat. 1. Will. 3. c. 18. Sect. 7, 11. (the Toleration Act) If a Dissenter, not being ordained, be chosen Church Warden, &c. he may execute the Office by a Deputy—but a dissenting ordained Minister is exempted from being chosen a Church Warden or to any other parochial Office.

What other Persons are exempted from all Parish Offices vide 1. Roll's Rep. 168. 2. Roll's Abr. 272. Eng. Stat. 6. Will. 3. c. 4. Sect. 2, 3. Eng. Stat. 10. & 11. Will. 3. c. 23. Sect. 2. Gibb. Cod. Jur. Eccl. 215.

Mandamus will lie to admit to Office of Church Warden, &c. Id. Raym. 138. 1. Salk. 166. 1. Stra. 615.

Rates

Rates and Taxes ; and if any Person thus rated or taxed, shall not pay the same within One Month after Notice given by such Church Wardens, that then it shall and may be lawful, on the Complaint of such Church Wardens, on Oath, that due Notice has been given as aforesaid, for any One of His Majesty's Justices of the Peace for the County of *Halifax*, by Warrant of Distress under his Hand and Seal, to cause the same to be levied on the Goods and Chattels of the Person so failing.

Persons over rated
may appeal to the
Sessions.

VI. *Provided always*, That if any Person shall think himself over rated, he may appeal for Redress to the next *General Sessions of the Peace* for the said County, and the Justices thereof are hereby required and impowered to examine, hear, and determine all and every such Appeal or Complaint, and to give Redress as they in their Judgment shall think equitable, and such their Order and Judgment shall be final, and bind all Parties.

Rates to be made
the First Monday
after Easter Yearly.

VII. *And be it further Enacted*, That the Church Wardens and Vestry may meet as often as the Business of the said Church shall require, but for the making the Assessments and rating the Parishioners, they shall and are hereby enjoined to meet on the first Monday after Easter yearly and every Year; and no Assessment, unless the same be agreed on and subscribed by at least Seven of the said Vestry and Church Wardens, nor any other Act by them done or agreed on to be done, shall be valid, and have its Force and Effect in Law, unless also Seven of them, at least, be present.

Ministers of the
Church of England,
subject to the Pen-
alties prescribed
by the Canons and
no other.

*This Clause repeals
the Penalties by Pro-
Law 32. Geo. 2.
c. 17. Sect. 2. & 3.*

VIII. *And be it further Enacted*, That the Ministers of the Church of England, not conforming themselves to the Rules prescribed by the Canons of the said Church, shall be subject to the Censures and Penalties incurred therein, and none other, any Law, Usage, or Custom to the contrary notwithstanding.

C A P. IV.

An ACT for erecting a *Market House* within the Town of *Halifax*, and for raising a Sum of Money by *Lottery* for that Purpose.

Exec.

C A P. V.

An ACT to enable Proprietors to divide their Lands held in Common and undivided.

Repealed by His
Majesty in Council.

C A P. VI.

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C A P. VI.

An A C T in Addition to an A&t intituled, *An A&t relating to the Assize of Bread, and for ascertaining the Standard of Weights and Measures*; made and passed in the 32^d Year of His Majesty's Reign.

 E it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the First Day of May, 1760, no Provision or Goods of any Kind shall be sold within the Province, by Steelyards (except the Article of Hay) under the Penalty or Forfeiture of Twenty Shillings, to be paid by the Person or Persons offending, for each and every Default, and to be recovered before any of His Majesty's Justices of the Peace.

No Provisions or Goods of any Kind (except Hay) to be sold by Steelyards, on Penalty of 20s.

II. *And it is further Enacted by the Authority aforesaid*, That the Clerks of the Market are hereby impowered to inspect all Beams and Scales, Weights and Measures, as well of Brasses as of other Metals, and also the Steelyards used for weighing Hay, once in every Three Months, or oftner, as they shall see Cause; not only those used by the Inhabitants, selling publicly by Weights and Measures, but also those used on board any Ships or Vessels lying at any Wharves, or at Anchor in any Harbour, or by any Person or Persons selling as aforesaid within the Province, and the same to assay and stamp, and dispose of as in said A&t is directed, and under the same Penalties: And all Masters of Ships or Vessels refusing Admittance to the said Clerks of the Market, shall be liable to the same Penalties as any Inhabitant, in Manner and Form as prescribed by said A&t, and to be recovered in the same Manner.

Clerks of the Market to inspect Scales, Weights, &c. once in three Months and

to assay and stamp the same.

III. *And it is also further Enacted*, That all Fines and Forfeitures incurred by this, or the former recited A&t, shall be applied, Three Fourths to the Clerk of the Market, and the other Fourth to the Poor of the Town where the Offence shall be committed.

Three Fourths of Fines to the Clerk of the Market, One Fourth to the Poor.

Vide further Additions to this Act, 4. Geo. 3. c. 5. 2. Sess. 6. Geo. 3. c. 5.

C A P. VII.

An A C T to prevent the importing disabled, infirm, and other usefess Persons into this Province.

Repealed by His Majesty in Council.

C A P. VIII.

An A C T to prevent disorderly Riding Horses, and Driving Carts, Trucks, and Sleds, Slays or any other Carriage whatsoever, within the Town of *Halifax*, or any other Town within the Province.

Preamble.

IN Order to prevent the Inconveniences and Mischiefs which might arise from the negligent and disorderly Riding Horses and Driving Carts, Trucks, and Sleds for Carriage of Burthen, or any other Carriage whatsoever, within the Town of *Halifax*, or any other Town within the Province; Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the Publication hereof, no Person or Persons shall, on any Pretence whatever, gallop or ride at full Speed on Horseback, or having the Charge of driving any Horse or Horses, in any Cart, Truck or Sled, shall ride upon such Horse or Horses, or remain placed in or upon any Part of such Cart, Truck or Sled, within any of the Streets or Highways of the said Town or Towns, and that no such Driver or Drivers shall omit, during such Time, to lead the Shaft or Thill Horse by an Halter, not exceeding Four Feet in Length, or shall drive any such Horse or Horses faster than a Footpace, upon Penalty of Ten Shillings for every such Offence, to be paid upon Conviction by the Testimony of One credible Witness, before any One of His Majesty's Justices of the Peace, within Twenty Four Hours after such Offence committed; and in Case of any such Offender's Refusal to pay the same, said Offender shall be put to Labour for the Space of Four Days in repairing the said Highways, under the Direction of the Surveyor or Surveyors of the Highways, or any of them; and in Case of Refusal or Neglect to perform such Labour, it shall and may be lawful for any Justice of the Peace, upon Complaint of the said Surveyor or Surveyors, or any of them, to cause such Offender to be committed to the House of Correction, where he shall forthwith receive Ten Stripes, in the usual Manner of Correcting Offenders at the said House, and thereupon be discharged.

on Penalty of 10s.
orfour Days Labour
in the Highways,on Refusal to be
whipped Ten
Stripes.Owners of Sleds or
Slays to fix Six Horse
Bells on the Horse
Harness, &c.

on Penalty of 20s.

II. And be it further Enacted, That every Owner or Proprietor of any Sled or Slay, used either for Carriage of Goods or Persons, shall cause at least six Horse Bells to be affixed to the Horse Harness of the said Sled or Slay, and shall not drive the same, or any other Carriage whatsoever, in a disorderly Manner, upon Penalty of Twenty Shillings for every Omission or Offence, upon Conviction, on the Oath of One credible Witness, before any One of His Majesty's Justices of the Peace, within Twenty Four Hours after such Offence committed; and in Case of Refusal or Neglect

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Brit. Stat. 3. C
&c.

to pay the same, to be levied on the Goods or Chattels of such Offender, by Warrant of Distress and Sale under the Hand and Seal of the said Justice.

III. *All Fines and Penalties* incurred by this Act, to be paid into the Hands of the Surveyors of the Highways for the Time being, to be by them applied towards the repairing and amending the same.

Fines to be applied to repair Highways.

C A P. IX.

An A C T in Addition to an Act intituled, *An Act for regulating Petit Juries, and declaring the Qualification of Jurors.*

XXXX *Be it Enacted by His Excellency the Governor, Council, and B Assembly, and by the Authority of the same it is hereby Enacted,* That from and after the Publication hereof, no Person shall be deemed qualified to serve as a Grand Juror for the County of Halifax, at the *Supream Court*, or at the *Sessions of the Peace* for the said County, unless such Person shall be possessed of a Freehold (a) in the said County, of the clear yearly Value of Ten Pounds, or of a Personal Estate (b) of the Value of One Hundred Pounds.

Qualification of Grand Jurors.
Eng. Stat. 2. H. 5. c. 3.

Eng. Stat. 3. H. 5. c. 13.

II. *And be it further Enacted,* That the Provost Marshal of the said County, shall every Year, *To wit,* On or before the Tenth Day of *April*, make Return of Fifty five Persons, so qualified as aforesaid, to the Clerk of the *Supream Court*, who shall thereupon cause the Names of the Persons so returned to him, to be written on distinct Pieces of Paper or Parchment, as near as may be of equal Size, which shall be severally rolled up in the same Manner, and put into a Box to be locked up by the said Clerk; and Ten Days before the Sitting of the *Supream Court*, the said Clerk shall publicly in the Presence of the Chief Justice, at the Court House, draw Twenty Three of the said Papers or Parchments, and Eight Days before the Sitting of the said Court, a Precept shall issue in the usual Form, containing the Names of the Persons so drawn, to the said Provost Marshal or his Deputy, requiring him to summon the said Persons to attend as Grand Jurors at each of the two Sitzings of the *Supream Court* next following, and to make due Re-

Method of Returning, Balloting, and Summoning, Grand Jurors.

(a) 2. Hales Hist. P. C. 155. 2. Hawk. P. C. 216, 415. Want of Freehold is a good Challenge of a Juror, where not otherwise provided for by Statute.

(b) 2. Vent. 366. 2. Hawk. P. C. 416, 417. By *Eng. Stat. 4. & 5. Will. & Mar. c. 24.* Copyholders (as well as Freeholders) of £10. per Ann. may be summoned on Juries, and by *Brit. Stat. 3. Geo. 2. c. 25. Sect. 18. & 4. Geo. 2. c. 7.* Leaseholders are qualified to be Jurors, &c.

turn of the same, and at the End of the First Term, the said Box be delivered to the Clerk of the Peace of the said County, who shall in like Manner, in the Presence of the Chairman of the *General Quarter Sessions*, draw Sixteen Papers or Parchments, Ten Days before the Meeting of the then next *Quarter Sessions*; and the Persons so drawn shall be summoned and returned as aforesaid, to attend the said Court of *Quarter Sessions* at each of their two next Sitzings as Grand Jurors; and the remaining Sixteen Persons shall, in like Manner, be summoned and returned to serve as Grand Jurors at each of the two next *Quarter Sessions* ensuing the *Quarter Sessions* aforesaid.

Persons refusing or neglecting to appear, to be fined L5.

and after appearing, 20s. for each Day's Absence.
Eng. Stat. 35. H. 8.
c. 6. Brit. Stat.
5. Geo. 2. c. 25.
Sect. 13.

If a sufficient Number do not appear, others to be drawn in open Court, and summoned to attend.

III. *And be it further Enacted*, That if any Person so summoned, shall refuse or neglect to appear on the First Day of the Sitting of the said respective Courts, unless prevented by Sickness or other necessary Cause, to be judged of by the Court, it shall and may be lawful to impose a Fine of Five Pounds on the Person so neglecting to appear, or if any Person who shall appear, shall without just Cause to be allowed by the Court, be absent, it shall and may be lawful to impose a Fine of Twenty Shillings for each Days Absence; (c) and in Case such Fines shall not be paid in Two Days after imposing the same, to the said Clerks respectively, the same shall be levied by Warrant of Distress, to be forthwith issued from the Court wherein such Fine was imposed, and shall be deposited with the Clerk of such Court, and within two Days after the Rising of the said Courts, the said Fines shall be paid to the Treasurer of the Province, for the Use of His Majesty.

IV. *And be it further Enacted*, That if a sufficient Number shall not appear upon such Summons, for constituting a Grand Jury, the said Clerks shall be directed to draw in open Court, so many of the remaining Papers or Parchments, as shall be requisite for that Purpose, and the Persons whose Names are contained in the same, shall be immediately summoned by the Provost Marshal or his Deputy, to attend as Grand Jurors; and the Papers or Parchments containing the Names of those who shall not appear, shall be forthwith returned into the said Box, and the said Persons shall be liable to the like Fines for Non Appearance or Absence, to be levied and paid as herein before directed.

V. *And be it further Enacted*, That no Person who hath served as a Grand Juror, at two Terms of the *Supream Court*, or at two Terms of the *Quarter Sessions*, shall be compelled to serve as Petit Jurors within One Year from the Time of such his Attendance as a Grand Juror.

VI. *And be it further Enacted*, That no Papist shall serve or be returned to serve on any Grand Jury; and that in all Trials of

(c) a. Hale's Hist. P. C. 309.

Persons who have duly served as Grand Jurors, not compelled to serve as Petit Jurors within One Year.
Eng. Stat. 3. Geo. 2.
c. 25. Sect. 4.
Papists not to serve on Jurors.

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Issues on any Presentment, Indictment, or Information, it shall be lawful to challenge any Papist returned as a Juror to try the same, and such Challenge shall be allowed(d).

VII. *And be it further Enacted*, That in all Cases where it shall be judged necessary to hold a special *Supream Court* or *Court of Sessions*, it shall and may be lawful for the said Courts to issue a Precept and Venire for summoning Grand and Petit Jurors, in the same Manner as has been practised before the making of this or the said former Act for regulating Petit Juries, and declaring the Qualifications of the same.

VIII. *And be it further Enacted by the Authority aforesaid*, That Grand Juries shall not be obliged to attend more than Six Days at each Term of the *Supream Court* (e), nor more than Three Days at each Term of the *Quarter Sessions*, unless upon some special Occasion; and that Petit Juries shall not be obliged to attend more than Ten Days from the First Day of the Jury's being sworn *, at either of the said Courts.

Vide a further Addition to this Act, 4. Geo. 3. c. 2. 2. Sess.

(a) By Eng. Stat. 3. Jac. 1. c. 5. Sect. 11. Every *Papist Recusant Convict* is disabled as a Person Excommunicated, &c. who could not be a Witness, but those who are excluded from the Church, were supposed not to be under the Influence of Religion—And by *Ld. Ch. Baron Gilbert's Law of Evidence*, 103. grounded on 2. Bull. 155. *Papist Recusants* like Persons excommunicated cannot be Witnesses; but *ex Opinioe Hawk.* in his P. C. 2. Vol. 23. 24. contra. *Cawley's 1. of Recusants*, 216 Nor could an Excommunicate be a Juror, for anciently Excommunication was a Cause of Challenge to a Juror. Co. Lit. 158. 2. Hawk. P. C. c. 4. 3 and upon these Principles a *Papist Recusant* seems disqualified to be a Juror. And by Eng. Stat. 3. Jac. 1. c. 5. Sect. 8. it is expressly enacted, That no *Recusant Convict* shall be a Judge, Minister, &c. of any Court.

By Act of Parliament in *Ireland*, Irish Stat. 6. Ann. c. 6. Sect. 5. No Papist shall serve or be returned on any Grand Jury, unless it shall appear to the Justices, that a sufficient Number of Protestants cannot be then had for that Service, and in all Trials of Issue, on any Presentment, Indictment, Information, or Action on any of the Statutes mentioned in this Act, it shall be lawful for the Prosecutor or Plaintiff to challenge any Papist returned as a Juror to try the same, which Challenge the Judges shall allow.

The Eng. Stat. 3. Jac. 1. c. 5. seems not to have been re-enacted in *Ireland*.

(e) 2. Hale's Hist. P. C. 156. The Grand Jury sworn the first Day of the Gaol Delivery, commonly serve the whole Session, but if when they have brought in all their Bills, they should be discharged, and new Offences arise, Court may command another Grand Enquest to be returned and sworn.

In case of a Special Supream Court or Court of Sessions, Grand and Petit Juries to be summoned as heretofore practised.

Grand Juries not to attend more than Six Days at the Supream Court, nor more than three Days at the Sessions. Nor Petit Juries more than ten Days. The Petit Juries are never sworn till each Cause is brought on to Trial—Quere, when the Ten Days are to commence?

C A P. X.

An A C T for the better and more effectual Establishment of the Church of England in this Province.

E it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That hereafter when any Church, Chapel, or Place of Worship shall be erected in any Part of this Province, for the Celebration of Divine Service, according to the Rites and Ceremonies

When any Church &c. shall be hereafter erected, the Governor and Council to prescribe the Limits of the Parish.

* In what Manner
Parochial Churches
are founded, Vide Dr.
Burn's Ecl. Laws.
2. Vol. 132. Bp.
Gibson's Cod. Jur.
Ecl. Ang. Tit. 9.

Church Wardens,
&c. to be chosen
annually, in Man-
ner prescribed for
the Parish of St.
Paul's in Halifax.

33. Geo. 2. c. 3.

Powers and Autho-
rities of Church
Wardens and Over-
seers of the Poor.

† 33. Geo. 2. c. 1.

|| 33. Geo. 2. c. 4.

Ceremonies of the *Church of England*, it shall and may be lawful for His Excellency the Governor or Commander in Chief, with the Advice and Consent of His Majesty's Council, to prescribe Limits and allot a certain District, which shall be the Parish of the Church so erected *; and it shall and may be lawful for the Inhabitants or Persons residing within the said District, to meet for the Choice of Church Wardens, Vestry, and Parish Officers, which Choice shall be made yearly, and at the same Time and Manner as is prescribed already for the Parish of *St. Paul's* in *Halifax*; and all Meetings, Acts and Proceedings of the Parishioners, Church Wardens, Vestry, and Parish Officers of said Parish so erected, in Behalf of the said Church and Parish, shall be according to the Rules and Regulations set forth for *St. Paul's Church* in *Halifax*, in an Act intituled, *An Act in Addition to an Act for the Establishment of religious public Worship in this Province, and for suppressing of Popery*. And the said Church Wardens and Vestry are hereby impowered to act in the same Manner, in all Cases, as is prescribed in said Act.

II. *And be it further Enacted*, That the Church Wardens of every Parish within the Province, together with the Overseers of the Poor, shall have and exercise the same Powers and Authorities in every Respect as are given to the Overseers of the Poor, by an Act intituled, *An Act for Regulating and Maintaining an House of Correction or Work House within the Town of Halifax, and for binding out Poor Children* †; and also by an Act intituled, *An Act for the Relief of the Poor in the Town of Halifax* ||.

Vide an Addition to this Act, 34. Geo. 2. c. 10.

C A P. XI.

An A C T for regulating the Rates and Price of Carriages.

Preamble.

Justices in Sessions
to regulate Rates
for the Carriage of
Wood, &c. in Ha-
lifax.

***** HEREAS the Rates and Price demanded by the Owners
***** of Trucks, Carts, and other Carriages of Goods, Wares and
***** Merchandize, are very exorbitant and excessive, and further-
some to Trade: In Order, therefore, to remedy the same, Be
it Enacted by His Excellency the Governor, Council, and Assembly, and
by the Authority of the same it is hereby Enacted, That the Justices in
their General Sessions of the Peace, held for the County of *Halifax*,
shall twice every Year, in the Month of *March* and in the Month
of *September*, regulate the Fares and Rates for the Carriage of
Wood, Barrels, Hogheads, and other Wares and Merchandize in
the Town of *Halifax* and its Suburbs, Consideration being had to
the Price of Hay, Provender for the Cattle, and Price of Day La-
bourers; and shall cause a Table of the several Rates agreed upon
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by them at their Sessions to be printed and posted up in the most public Places in and about the Town of *Halifax*.

II. *And be it further Enacted*, That if any Carman or Owner of Trucks or Carts, or any other Carriage, shall ask, demand or receive, from any Person, any other or greater Rates or Fare, than is allowed and prescribed by the Table aforesaid, he or they shall forfeit and pay the Sum of Twenty Shillings, to be recovered on the Oath of the Prosecutor, before any One of His Majesty's Justices of the Peace for the County of *Halifax*, and to be levied by Warrant of Distress: One Half to be paid to the Prosecutor, the other Half to be applied to and for the mending of the Streets of *Halifax*.

Carmen, &c. demanding any greater Rates, forfeit 20s.

III. *And be it also further Enacted*, That the Justices of the Peace at the *Quarter Sessions*, held in and for the several Counties within the Province, are also impowered and hereby required every Year, in the Months of *March* and *September*, to regulate the Fares and Rates of Carriages for the several Towns in each of the said Counties, in like Manner and with the same Penalties, and to be recovered as is directed by the preceding Clauses of this Act; One Half of the Fines and Forfeitures to be paid to the Prosecutor, and the other Half applied to and for mending and repairing the Streets of the Town where such Offence shall be committed.

Justices in Sessions, in other Counties, to regulate the Rates of Carriages, for each Town.

C A P. XII.

An A C T in Addition to an Act, intituled, *An Act for the Relief of the Poor in the Town of Halifax*: Made and passed in the 33^d Year of His Majesty's Reign.

Exec.

C A P. XIII.

An A C T to prevent any private Trade or Commerce with the *Indians*.

Repealed by His Majesty in Council.

C A P. XIV.

C A P. XIV.

An ACT in Addition to an Act, intituled, *An Act for preventing Trespasses.*

Preamble.

XXXX HEREAS by an Act made and passed in the Thirty Second Year of His Majesty's Reign, intituled, An Act for preventing Trespasses, it was Enacted, "That it should be lawful to impound any Swine going at large, within the Streets, Lanes, or Suburbs of the Town of Halifax;" And whereas no Provision was therein made for inclosing Ground for a Pound; Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That a Pound shall be forthwith made of Forty Feet square, at the publick Expence; and that the Grand Jury of the Supream Court, to be held in April next, shall appoint a Keeper of the same.

A Pound to be made forty Feet square, and a Keeper appointed.

Trespassing Cattle to be impounded.

II. And be it further Enacted by the Authority aforesaid, That if any Damage shall be done by breaking any Inclosures, and destroying any of the Produce thereof, by any Horses, Sheep, Goats, Swine, or Neat Cattle, it shall and may be lawful for the Person or Persons whose Fence or Fences shall have been so broken, and whose Inclosures shall have received such Damage, to cause the said Horses, Sheep, Goats, Swine, or Neat Cattle, to be impounded until the Owner or Owners of such trespassing Cattle shall claim the same, and the Keeper of the Pound shall cause the same to be cried as soon as may be, in order that the Person or Persons injured may proceed against the said Owner or Owners of such Horses, Sheep, Goats, Swine, or Neat Cattle, refusing to pay the Damages done by their said Horses, Sheep, Goats, Swine, or Neat Cattle, as is directed in the First Clause of the Act intituled, *An Act for preventing Trespasses*, and the Owner or Owners of such Horses, Sheep, Goats, Swine, or Neat Cattle, shall pay to the Keeper of the Pound, over and above the Damages which shall be adjudged to have been done by the said Horses, Sheep, Goats, Swine, or Neat Cattle, for the Support of the same, for each and every Day the same shall be impounded, One Shilling for every Horse, and Head of Neat Cattle, and Six Pence for every Sheep, Goat, or Swine. And if the Owner of such Horses, Sheep, Goats, or Swine, or Neat Cattle, shall refuse to pay the same to the Keeper of the Pound, together with the Charge of Crying the same, within Fourteen Days after the same shall be impounded, the said Horse or Horses, Neat Cattle, Sheep, Goats, or Swine, shall be publickly sold, and the Money arising from said Sale, after deducting therefrom the Pay of the Keeper for supporting them, and the Damages done by the said Horse or Horses, Neat Cattle, Sheep, Goats, or Swine, the Remainder shall be paid to the Owner, and if no Owner shall appear, then to the Overseers of the Poor, for the Use of the Poor of the Township of Halifax.

Owners of such Cattle refusing to pay the Damages, &c. the same to be sold for the Payment thereof.

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III. *And Whereas no Provision is made by the said Act for preventing any Rescue of Swine, Horses, Sheep, Goats, or Neat Cattle, Be it therefore Enacted, That if any Person or Persons shall rescue any Swine, Horses, Sheep, Goats, or Neat Cattle, from any Hogreave or other Person, driving such Swine, Horses, Sheep, Goats, or Neat Cattle, to the Pound, the Offender shall forfeit and pay for such Rescous, the Sum of Twenty Shillings, over and above all Damages that may be sustained by the Trespass of such Swine, Horses, Sheep, Goats, or Neat Cattle; which Penalty and Damages shall be recovered by the Oath of One credible Witness, before any One of His Majesty's Justices, and to be levied by Warrant of Distress, and Sale of the Offender's Goods and Chattels; and if any Person or Persons shall make any Breach of the said Pound, or shall by any other indirect Means, deliver any Swine, Horses, Sheep, Goats, or Neat Cattle, out of the same, the Person so offending, being duly convicted thereof before any Two of His Majesty's Justices of the Peace, shall forfeit and pay the Sum of Five Pounds, to be levied as aforesaid; and the said Penalties for every such Rescous and Pound Breach, shall be paid to the Church Wardens and Overseers of the Poor, for the Use of the Poor of the Town of Halifax, after deducting the Charges of repairing any Breach of the Pound.*

Persons rescuing
such Cattle, forfeit

20s. besides the
Damage done by
the Trespass,

and for every Pound
Breach, 5^s.

to the Use of the
Poor.

IV. *And Whereas by the said Act it was also Enacted, ' That the Surveyors of Highways should cause the Streets, Lanes, and Highways of the Town and Suburbs of Halifax, to be mended at the Charge of the Proprietors of Lands bordering thereon; ' but no Provision is made, by the said Act, for rating and levying such Charges, Be it therefore Enacted, That if any such Proprietor shall not, within Fifteen Days Notice from the said Surveyors, cause such Part of the Streets, Lanes, and Highways, as border on his Lands to be levelled and repaired according to the Directions of such Surveyors, such Person shall forfeit and pay such Sum as shall be certified on Oath, by such Surveyors, to be necessary for such Levelling and Repairs; which Sum shall, on such Certificate, be levied by Warrant of Distress and Sale of such Proprietor's Goods and Chattels, to be issued by any One of His Majesty's Justices of the Peace; and when no Goods or Chattels are to be found, then and in such Case the Real Estate shall be liable.*

Proprietors to level
and repair such Part
of the Streets, &c.
as border on their
Lands, or to forfeit
such Sum as shall be
certified by the Sur-
veyors to be neces-
sary therefor.

Real Estate liable.

V. *Provided, That if any Person shall be rated by such Certificate, in any Sum exceeding Twenty Shillings, and shall think himself aggrieved, such Person may appeal to the next General Quarter Sessions of the Peace, which is hereby empowered finally to determine the same.*

Appeal to the Quar-
ter Session

VI. *And be it further Enacted, That the Justices in their Quar-
ter Sessions of the Peace, in all other Counties within the Province, shall
be empowered, and are hereby directed, to make Regulations for
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Justices in Sessions
to make Regula-
tions in other
Counties.

A a

preventing Trespasses, by Horses, Swine, Sheep, Goats, and Neat Cattle, going astray, in Manner as shall be most agreeable to the Circumstances of such County or Townships therein.

Vide further Additions to this Act, 1. Geo. 3. c. 10. & 15.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Fourth Day of *December*, *Anno Domini* 1759, and in the Thirty Third Year of the Reign of Our Sovereign Lord GEORGE the Second of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Eighth Day of *September*, *Anno Domini* 1760, in the Thirty Fourth Year of His Majesty's Reign, being the Second Session of the Second GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT for the making perpetual an Act made and passed in the 32d Year of His Majesty's Reign*, intituled, *An Act to prevent the Sale of Slop Cloathing, and for punishing the Concealers and Harbourers of Seamen or Marines deserting from the Royal Navy.*

* Cap. 12.

Preamble.

†† viz. the Act named in the Title, 32. Geo. 2. c. 12.

Act made perpetual.

WHEREAS the said Act† was made only to continue and be in force until the End of this present War; and whereas the said Law† has been found to be very useful and beneficial to the Public, Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That the said Act to prevent the Sale of Slop Cloathing, and for punishing the Concealers and Harbourers of Seamen and Marines deserting

deserting from the Royal Navy, shall be, and the same is hereby made perpetual, any Proviso or Limitation in the said Act notwithstanding.

C A P. II.

An Act for the ascertaining Damages on protested Bills of Exchange.

*** E it Enacted by His Excellency the Governor, Council, and
* B * Assembly, and by the Authority of the same it is hereby Enacted,
*** That from and after the Second Day of October, One
Thousand Seven Hundred and Sixty, all Bills of Ex-
change drawn from and after said Time, by Persons residing
within this Province, upon Persons in Europe, that may be sent
back protested, shall be subject to Ten per Cent. Damages, and
Six per Cent. per Annum Interest, from the Day of the Date of
the Protest on said Bill, to the Time of Payment. *And be it also*
Enacted by the Authority aforesaid, that all Bills of Exchange drawn
by Persons residing within the Province, after said Time, on Per-
sons in the other Colonies, and sent back protested, shall be subject
to Five per Cent. Damages, and Six per Cent. per Annum Inter-
est, from the Day of the Date of the Protest to the Time of Pay-
ment.

Foreign Bills of
Exchange.

Geo. Car. 301.
Burnaby versus Re-
galt. 1. Vent. 45.

II. *And be it further Enacted by the Authority aforesaid,* That all
Bills and Orders drawn from and after the said Second Day
of October next, by Persons residing within the Province on Per-
sons living or residing in the same, that shall be protested, shall
be subject to Six per Cent. Interest from the Date of the Protest to
the Time of Payment.

Inland Bills of Ex-
change.
Eng. Stat. 9. & 10.
Will. 3. c. 17.
Eng. Stat. 3. & 4.
Ann. c. 9. made per-
petual by 7. Ann.
c. 25. Sect. 3.
1. Salk. 131. Bo-
rough versus Perkins.

C A P. III.

*An Act to explain an Act made and passed in the 33d
Year of His Majesty's Reign, intituled, An Act to
enable Proprietors to divide their Lands held in com-
mon and undivided.*

Repealed by His
Majesty in Council.

C A P. IV.

C A P. IV.

An Act in Amendment of an Act, intituled, An Act for confirming Titles to Lands and Quieting Possessions *.

* 32. Geo. 2. c. 2.

Preamble.

† Cap. 2.

All Deeds, &c. to be registred, on Proof of the Execution thereof, either by the Acknowledgment of the Grantor, or by the Oath of one of the Witnesses, before a Justice of the Peace, where such Deeds &c. have been executed.

W H E R E A S some Inconveniences have already and frequently arise to the Purchasers of Lands in this Province, from the Difficulty of producing, before the Register or his Deputy, one of the Witnesses to the Execution of any Deed or Conveyance having been executed in Great Britain or Ireland, or in some of His Majesty's Colonies or Plantations distant from this Province, in the Presence of Witnesses resident there, who cannot be produced before the said Register or his Deputy, to prove the Execution thereof on Oath; thereby preventing the due Registring of such Deed or Conveyance, agreeable to the Directions of an Act made and passed by the Governor, Council and Assembly of this Province, in the 32d Year of His Majesty's Reign †, intituled, "An Act for confirming Titles to Lands and "quieting Possessions:" For Remedy whereof, Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the Publication hereof, the Register of Deeds and Conveyances in this Province, or his Deputy, shall and may duly register, as directed by the aforesaid Act, all such Deeds and Conveyances of Lands in this Province, as shall have been made and executed in Great Britain or Ireland, or in any of His Majesty's Colonies or Plantations, distant from this Province, (tho' one of the Witnesses thereto should not come before him or his Deputy, to prove the same as directed by the said Act) *Provided* the Execution thereof shall appear to him, either to have been properly acknowledged by the Grantor himself named in such Deed or Conveyance, or be proved by the Oath of one of the subscribing Witnesses thereto, before some or one of His Majesty's Justices of the Peace of the Place where such Deed or Conveyance shall have been executed, and duly attested by him; and such Attestation being also authenticated (if in the Plantations) under the Hand and Seal of the Governor, Lieutenant Governor, or Commander in Chief of the Province, where the same shall be made, or of a Publick Notary there residing; and if in Great Britain, or Ireland, under the public Seal of some Corporation there, or by the Attestation and Certificate of some Notary Publick lawfully constituted, resident there, certifying that such Person so subscribing as a Justice of the Peace is really so, and that all Faith and Credit ought to be given to his Attestations.

Vide further Additions to this Act, 1. Geo. 3. c. 3. & 5. Geo. 3. c. 8.

CAP. V.

An Act in Amendment of an Act, made and pass'd in General Assembly, at the Session begun and holden at Halifax, on the Second of October, 1758, intituled, *An Act relating to Wills, Legacies and Executors, and for the Settlement and Distribution of the Estates of Intestates.*

*** HEREAS by an Act made and pass'd in GENERAL ASSEMBLY, at the Session begun and holden at Halifax, on the Second Day of October, 1758, intituled, "An Act relating to Wills, Legacies and Executors, and for the Set-

Preamble.

tlement and distribution of the Estates of Intestates," It is amongst other Matters Enacted, "That in Case that Personal Assets shall be sufficient for the Payment of any Debts or Legacies, and it shall be found necessary by any Executor or Administrator, to make Sale of any Part of the Real Estate of the Deceased for the Payment of any Debts or Legacies, such Executor or Administrator shall apply to the General Assembly, to grant a Licence for the Sale of such Part of such Real Estate as may be most convenient, for the Payment of such Debts or Legacies; and before any Sale be made of any Real Estate, the Executor or Administrator shall give Thirty Days public Notice, by putting up Notifications in the most public Places, in the Town where the deceased Person last dwelt, and in the public Prints, if any such there be; and whoever will give most shall have the Preference in such Sale: And in Case the Estate of such Intestate shall be insolvent, the Executor or Administrator shall make like Application to the General Assembly for an Inquiry, and for the Appointment of Commissioners to enquire into such Insolvency, and to examine and settle the Claims of all Creditors, and the Amount of the Estate of such Intestate, and to authorize such Executor or Administrator to sell all the Lands and Tenements of such Insolvent, and to divide the Produce of the Whole of such Estate, in due Proportion to and among the Creditors." And Whereas Inconveniences have already arisen, and may hereafter arise by the Delays hereby necessarily occasioned, and the Intimations of the Convention of the General Assembly, Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That all such Applications as by the before recited Clause of the said Act, are to be made by any Executor or Administrator to the General Assembly shall, from and after the Publication hereof, be made to the Governor or Commander in Chief for the Time being, and His Majesty's Council of this Province, who are hereby authorized and empowered to take Cognizance thereof, and to proceed thereon in like Manner, as by the before recited Clause of the said Act, should have been done by the General Assembly.

By Prov. Act relating to the Guardian of Minors, 37. Geo. 2. c. 25. 37. Geo. 2. c. 25. Children are intrusted to Care in the Father's Estate.

Applications for the Sale of Real Estate, for Payment of Debts, &c.

to be made to the Governor and Council, instead of the General Assembly.

B b

II. And

Executors to give
Security for a just
Distribution.

II. *And be it further Enacted*, That every Executor or Administrator, who may, by Virtue of this Act, be authorised and empowered to make Sale of any Real Estate, shall, before such Sale made, give Bond by himself, or his lawful Attorney, with Two Sureties, at the Office of the Register of the Court of Probates, in the County where such Real Estate shall lie, for the just and legal Distribution of the Monies arising from such Sale, in the full Value which, by the Report of the Commissioners for that Purpose appointed, shall be certified to be necessary to be raised by such Sale.

Lands, &c. sold by
Virtue of this Act,
to be the absolute
Property of the
Purchaser.

III. *And be it further Enacted by the Authority aforesaid*, That all Lands, Tenements, or Hereditaments, sold by any Executor or Administrator by Virtue of this Act, shall become the absolute and undoubted Right and Property of the Purchaser or Purchasers thereof, from and after the Time of such Sale.

C A P. VI.

An Act for Establishing a Public Market at the Market House in Halifax, and for regulating the same.

The Market House
to be open from
Sun rise to One
o'Clock, every Day
in the Week, and
on Saturdays till
Ten o'Clock at
Night.

 *Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted*, That the Market House newly erected in the Town of Halifax, shall be open on Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays, from Sun rise to One o'Clock in the Afternoon, and on Saturdays from Sun rise to Ten o'Clock at Night, for the Reception of all kinds of Butchers Meat, Poultry both alive and dead, Roots, Greens, Fruits, and other Vegetables, which may be brought for public Sale therein. The First Market Day to be held on Monday the Thirteenth Day of October next ensuing, and so to continue in Manner aforesaid.

A Keeper to be ap-
pointed by the
Governor,

his Duty, and

II. *And be it further Enacted by the Authority aforesaid*, That a proper Person shall be appointed by the Governor or Commander in Chief, to be Keeper of the said Market House, who shall open and shut the same at the Times herein appointed, and cause it to be kept clean, sweet, and in good Order: And the said Keeper is hereby impowered to let the Stalls, and to sue for, recover, and receive, from the Persons who shall occupy the same, the Monies arising from the Rents, agreeable to the several Rates herein after mentioned; which Monies he shall account for upon Oath, and pay to the Treasurer of the Province once every Three Months.

and for his Services in this Office he shall receive a Salary not exceeding Forty Pounds per Annum.

Salary.

III. *And Whereas Disputes and Controversies do often arise in public Markets, which end in Quarrels and Frays; for preventing whereof as much as possible, Be it Enacted by the Authority aforesaid, That the said Keeper of the Market House shall be invested with all the Power and Authority of a Constable, in all Matters relative to the keeping Peace and Order in the said Market; and shall accordingly be sworn into that Office, before any Two of His Majesty's Justices of the Peace, or at the next General Session of the Peace for the County of Halifax, after his Appointment.*

Keeper to have the Power of a Constable.

IV. *And be it further Enacted, That every Person who shall hire One of the said Stalls by the Quarter or any longer Time, shall pay Quarterly to the Keeper at the Rate of Eight Pounds per Annum for the same; and those who shall hire any of the said Stalls for a shorter Space of Time, shall pay at the Rate of One Shilling and Six Pence per Day to the said Keeper; but live Poultry, Fruits, Greens, and other Vegetables, shall be exposed to sale on the Benches under the Piazza, Rent free.*

Rates for the Stalls.

Live Poultry &c. to be sold in the Piazza.

V. *And be it further Enacted, That the Persons exposing to Sale any Butchers Meat, Poultry, alive or dead, Roots, Greens, Fruit, or other Vegetables, as well within the said Market House, as without under the Piazza, shall constantly keep the same clean, sweet, and in good Order, to the Satisfaction of the said Keeper, on Penalty of forfeiting to the said Keeper the Sum of Two Shillings and Six Pence for each and every Neglect; and the said Keeper is herenby empowered immediately to demand the same, and in Case of Refusal, the same shall be levied by Warrant of Distress from any one Justice of the Peace, with Costs.*

Persons selling Meat, &c. to keep the House clean, on Penalty of 2s. 6d.

VI. *And be it also Enacted, That if any Person shall sell or expose to Sale, any of the before mentioned Commodities within the Town or Peninsula of Halifax, or on board of any Vessels in the Harbour thereof, until such Commodities shall have been first carried to the Market House, and there publicly exposed to Sale, during the Market Hours; or if any Person or Persons whatsoever shall presume to sell or expose to Sale, on board of any Vessel in the Harbour, or in any Shop, or Stall within the Town and Suburbs of Halifax, (other than in the said Market House) any Butchers Meat or other the Commodities above mentioned, during the Market Hours herein before appointed; he shall forfeit a Sum not exceeding Five Pounds for every such Offence; to be sued for and recovered before any Two of His Majesty's Justices of the Peace for the said County: One Moiety to be paid by the said Justices to the Treasurer of the Province, for the Uses of the Government, and the other Moiety to the Person or Persons who shall inform and sue for the same.*

Penalty £5. for selling Meat, &c. out of the Market, before it has been brought there and exposed to Sale during Market Hours.

VII. *Provided*

Not to extend to
Contractors for
victualling the
Army and Navy.

VII. *Provided always*, That nothing in this Act contained, shall debar the Agents or Contractors for Victualling his Majesty's Ships, and the Army, to import the necessary Provisions for fulfilling their respective Orders or Contracts, without exposing them to public Sale, as is herein before directed.

Application of the
Money raised by
the Rent of the
Stalls.

VIII. *And be it further Enacted*, That all the Monies arising from the Rents of the said Market House, over and above the Keeper's Salary, shall be applied to the keeping the said Market House in proper Repair, under the Inspection of the Clerks of the Market for the Time being; and the Surplusage, if any be, is hereby granted to His Majesty, and shall remain in the Hands of the said Treasurer, to be applied in the first Place, for building a public Slaughter House, and thereafter for the Uses of the Town of *Halifax* only.

Vide an Addition to this Act, 6. Geo. 3. c. 2.

C A P. VII.

An Act for appointing Commissioners of Sewers.

Preamble.

WHEREAS great Quantities of Marsh, Meadows, and low Grounds, in this Province, and particularly in the Bay of Fundy, and Rivers, Bays and Creeks, branching therefrom, are spoiled by overflowing of the Sea, and other Waters, which by Industry may be greatly improved, as well for the General Good as for the Benefit and Profit of the Owners; and also much Meadows and Pasture Land might be gained out of Swamps, and other rough and unprofitable Grounds by drowning and draining the same: To the Intent therefore, that the new Settlers and other Proprietors of such Marshes, Meadows and low Grounds, may be encouraged and enabled to raise Dykes, and remove such Obstructions as prevent these Lands from being immediately useful, Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That it shall be in the Power of the Governor or Commander in Chief, with the Advice of His Majesty's Council, upon Request of any of the Proprietors of such Lands, to grant Commissions of Sewers^(a), to such and so many able and discreet Persons^(b) as to them shall seem meet, for the building and repairing such Dykes and Wears as are necessary to prevent Inundations; and also for the damming and flowing of Swamps, and other unprofitable Grounds, and draining

Commissioners of
Sewers to be ap-
pointed by the Go-
vernor and Council,

(a) *Eng. Stat. 23. H. 8. c. 5. Sect. 1.* Containing the Commissions issued in England under this Statute. Commission at Common Law, vide Registr. Prev. 126. 127. F. N. B. 113. 114.

Under the Commissions both at Common Law and by Statute, the Proceedings and Inquiries before a Court of Sewers, are by Juries.

(b) By *Eng. Stat. 13. Eliz. c. 9. Sect. 4. & 7.* Farmer of Lands chargeable not to be a Commissioner, but may act for other Lands.

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of them: By which Commissions the said Commissioners shall be empowered to meet and convene together from Time to Time as Occasion may require, to view, consider, consult, and contrive such Ways and Methods for building and repairing such Dykes and Wears, as are necessary to prevent Inundations, and for the drowning and draining of Swamps, and other unprofitable Grounds; and to employ Workmen and Labourers, for such reasonable Wages as may be agreed on, for the effecting the Premises; and from Time to Time to assess and tax all such Persons as may or shall be Owners of such Meadows, Marshes, or such unprofitable Swamps and Lands as aforesaid, towards the Charge thereof, having Regard to each Person's Quantity of Land and Benefits to be received thereby, as equally, according to their best Judgment, as they can; and also to appoint and swear a Collector or Collectors for the collecting, gathering, and paying the same, to such Persons as by the said Commissioners shall be appointed to receive it; with Powers to distrain all such Persons as shall neglect or refuse to make Payment of his, her, or their Parts or Proportions, set and assessed as aforesaid, in such Manner as is usually done in the like Cases; and to call before themselves the said Collector or Collectors, to account for his or their Trusts with Reference to the Premises; and likewise to value such Repairs as may have been made to the said Wears and Dykes, by the present Settlers before the Date of their said Commissions, and to proportion an Assessment for Payment of the same by those who have been or may be benefited thereby, in the same Manner as if such Repairs had been made by their own Order, in Virtue of their said Commissions.

their Power and
Authority.

1. Sid. 145.

II. *And be it further Enacted by the Authority aforesaid*, That the said Commissioners shall be sworn for the faithful Discharge of their Trust, and shall receive such Salaries out of the said Assessment, for their Time and Expences touching the Premises, as the Governor and Council shall appoint, unto whom the said Commissioners shall be accountable, when they shall be thereto required.

to be sworn and
have Salaries.

III. *And be it further Enacted by the Authority aforesaid* That in Case it shall so happen, That any Proprietor of any such Lands, Marshes, or Meadows, to be dyked and drained as aforesaid, shall be unable, or otherwise neglect to pay his, her, or their Part or Proportion of the said Rates or Assessments, it shall and may be lawful to and for the other Proprietors concerned therein, to pay the said Assessments, and to hold the said Lands and Meadows so long until the Rates and Profits to be received of those Lands may reimburse them, and the Commissioners aforesaid shall determine the Time how long(c).

Lands liable to Pay-
ment of Assessments.

(c) By Eng. Stat. 23. Hen. 8. c. 5. Sect. 8. The Lands may be sold for Non payment of the Assessments.

C c

IV. *Provided*

Appeal to the Governor and Council.

IV. *Provided always*, That any Person thinking himself aggrieved at any Procedure had or made by the said Commissioners, or any others in Pursuance of this Act, may appeal therefrom to the Governor and Council for Relief (*d*), who are hereby impowered to order the Possession of all such Lands as are held for Payment of the Assessments beforementioned, to be restored to the Proprietor on Proof before them, that the said Assessments have been received out of the Profits of the same.

Vide Additions to this Act 3. Geo. 3. c. 1. 2. Sess. and 5. Geo. 3. c. 4.

(*d*) Proceedings of Court of Sewers removable into B. R. by *Certiorari*, 5. Co. Rep. 99, b. Rook's Case. 4. Inst. 276. Cro. Ja. 336. 3. Inst. 125. 1. Lev. 288. 1 Vent. 66. 1. Talk. 145.

C A P. VIII.

An ACT for encouraging the Improvement of Lands in the Peninsula of *Halifax*, and further quieting of Possessions.

Preamble.

Lands within the Peninsula of *Halifax*, not improved for Seven Years past, may be granted by the Governor and Council.

* This Reference seems to establish the Commission in toto, and not for the particular Purposes of absent Grantees, &c.

*** *WHEREAS* great Inconveniences and Prejudices have arisen, *W* *on Account of not improving the Lands on the Peninsula of Halifax: And Whereas by the Agency of several Grantees, and the Neglect and Death of others, many of the Lots lie waste: In order therefore to encourage the Improvement of the Lands within the said Peninsula, Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted*, That in all Cases where the Grantees of Lands within the said Peninsula, have been Absent from the Province, or have lived therein, for the Space of Seven Years, and no Improvement made thereon for that Time; and likewise in such Cases where any Grantees of Lands are dead, and no Persons in Right of such Grantees have claimed said Lands (*a*); it shall and may be lawful, upon an Inquest of Office, on the Oaths of Twelve Men sworn for that Purpose, held before the Commissioner of Escheats and Forfeitures, according to the Commission to him granted *, and duly returned into the Office of Register of the Court of Chancery, for the Governor, or Commander in Chief for the Time being, with the Advice and Consent of His Majesty's Council, to make Grants

(*a*) This Clause can have Respe only to Grants by Virtue of Registries (in Nature of Licences for Improvement in order to future Grants) but not to Grants by Record under Seal of Government, which must operate and be tried by the Terms of the Patents, and are not voidable by general Revocations or any Conditions not imposed by the Grants.

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and Conveyances of such Lands so returned, which Grants and Conveyances shall be good valid, and effectual, to all Intents and Purposes whatsoever (b).

II. *Provided*, That it shall and may be lawful, for all Persons interested or intitled to such Lands as are comprized in said Office: to traverse the same, within Twelve Months from the Date of such Inquest. And if the said Office shall not be traversed within said Time, the Grant of said Lands, by Virtue of such Inquest, by the Governor or Commander in Chief, with Advice as aforesaid, shall be absolute according to the Form and Effect of such Grant (c).

Persons interested in such Lands may traverse within 12 Months, otherwise the Grant to be absolute.

5. Co. Rep.
1 Vent. 66.

III. *And Whereas it may be doubtful, whether the Registry of Lots of Land (granted simply as Lots without any formal Conveyance under the Seal of the Province) within the said Peninsula of Halifax, or elsewhere in this Province, import a Conveyance in Fee Simple to the Persons in whose Names the same are registered: For the quieting such Persons in their Possessions, Be it Enacted by the Authority aforesaid*, That all and every Person, having a Right to claim by Virtue of such Registry, (excepting the Persons absent or neglecting to improve as aforesaid) (d), shall be intitled to a full and absolute Estate in Fee Simple, in the Lands so registred, any want of Form in the said Registry notwithstanding*.

Registry of such Lands to be a Fee Simple.

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(b) The King's Title to resume must appear by Office on Oath, by Record Ministerial before the Escheator &c. 4. Re. 54. b. and by Eng. Stat. 18. Hen. 6. c. 6. Letters Patent granting Lands before the King's Title is found by Inquisition returned into Chancery, are void. Vide Eng. Stat. 21. Jac. 1. c. 25.

For the Nature of the Escheator's Office and the Writ to him *de inquirendo*, vide F. N. B. 321. C. D. Reg. Brev. 105. a. & Eng. Stat. 8. Hen. 6. c. 16. 23. Hen. 6. c. 16. Stat. 1. 12. Ed. 4. c. 9. 1. Hen. 8. c. 8. & Co. Lit. 13. a. b. & 92. b.

Vide 4. Inst. c. 43. p. 225. intitled "Court of the Escheator and of Commissioners for finding of Offices, &c." & 4. Bac. Abr. C. L. pa. 154. b. Tit. Prerogative. Letter B. Division. 2. Prerogative in Escheators, where the Escheator's Office is considered as still subsisting for finding Offices by Inquest to vest Titles in the Crown, and not as an Officer useless by abolishing the Court of Wards and Liveries, by Eng. Stat. 12. Car. 2. c. 24.

(c) By Eng. Stat. 1. Hen. 8. c. 10. Stat. 3. After Office found before any Escheator, the Lands seized may be let to the Traverser. How Offices may be traversed, vide Eng. Stat. 2. & 3. Ed. 6. c. 8. Stat. 6. 7. 13. & by Stat. 14. after Judgment upon the Traverse, if it shall appear by Record that the King has any other Title, it shall be saved to the King.

(d) This Exception absolutely excludes Absences &c. from deriving in Fee Simple, by Virtue of any Registry, for so is the manifest design of the Act.

* This I shew i. e. by due Authority, deemed expedient as a Mode of short Process, and without Expence, for intima. the Crown to resume and grant Lands forfeited by Breach of Conditions.

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C A P. IX.

† 22. Geo. 2. c. 13.
Sect. 31. 32.

An ACT in Amendment of an Act, intituled An Act relating to Treasons and Felonies†.

Preamble,

If a Prisoner challenges above 20 Jurors, such Challenge to be overruled, and the Jury sworn.

WHEREAS by an Act, intituled An Act relating to Treasons and Felonies, it is amongst other Matters enacted, "That if any Person or Persons indicted of any Offence, for which they are excluded from the Benefit of Clergy, or of the said Act, shall challenge peremptorily above Twenty of the Jury, Judgment shall be pronounced and Execution awarded against such Person or Persons, as if such Person or Persons had been convicted of such Offence by Verdict or Confession." And Whereas it will be more agreeable to the common Course of Justice, to allow the Benefit of Defence and Trial, Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That in all Cases where any Prisoner shall challenge peremptorily above Twenty of the Jury, such Challenge shall be over ruled, and the Jurors shall be sworn for the Trial of such Prisoner, as if no such Challenge had been peremptorily made *.

* Co. P. C. 102; pa. 227, 228. 2. Hale's Hist. P. C. 270. adjudged, on Eng. Stat. 22. H. 8. c. 14. that Challenge above 20 shall be overruled.

C A P. X.

An ACT in Addition to and Amendment of an Act, intituled An Act for the better and more effectual Establishment of the Church of England in this Province.

Preamble.

Ministers may sue the Church Wardens for Money received by them, &c

WHEREAS great Detriment and Inconvenience may arise to the Ministers of Saint Paul's Church in the Town of Halifax, as well as the Ministers of Churches, which may be hereafter established within this Province, for Want of sufficient Power to sue and recover from the Church Wardens, such Sum or Sums of Money, as they may have received from Time to Time, for the Use of said Ministers; Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That the said Ministers shall be and are hereby empowered to sue for and recover from the said Church Wardens, all such Sums as they may have received, or shall neglect to sue for and recover, for the Use and Benefit of said Ministers.

C A P. XI.

An Act for continuing an Act intituled, *An Act to prevent any private Trade or Commerce with the Indians.*

Repealed by His Majesty in Council.

C A P. XII.

An ACT for regulating the Common belonging to the Township of Lunenburg.

WHEREAS His Excellency the Governor has granted and set apart, a Tract of Land lying in the Peninsula of Lunenburg, to serve as a Common for the Inhabitants of said Town; And Whereas it is necessary, That some Regulations should be made by proper Persons, for the common Benefit of the said Inhabitants from Time to Time, as their Situation and Circumstances may require. Be it therefore Enacted by His Excellency the Governor, Council, and Assembly and by the Authority of the same it is hereby Enacted, That the Justices in their Quarter Sessions, to be next held in March for the said Town and County, shall give it in Charge to the Grand Jury then and there summoned, to affix and settle such Regulations, as they may think most proper and convenient to be observed and followed by the Inhabitants of Lunenburg; to continue for One Year, from such Session; and such Regulations as shall be approved of by the Justices of said Sessions, shall be and are hereby declared to be the stated Rules, to be kept, observed, and followed with Relation to the said Common, by the aforesaid Inhabitants, for and during the Space aforesaid.

Preamble,

Grand Jury, at March Sessions, to make Regulations for the Common, for One Year, to be approved by the Justices.

II. And be it further Enacted, That the said Justices shall, in the like Manner at their Annual Sessions, thereafter to be held in March, proceed and give in Charge to the Grand Jury in Manner aforesaid, and settle and approve of such Rules and Regulations for the said Common, to serve for the Year then next ensuing, as to them shall appear most proper and convenient.

The like to be done Annually at March Sessions.

III. And be it also further Enacted, That the said Justices shall be, and are hereby empowered to settle, and appoint such Pains and Penalties, to be inflicted upon the Person or Persons, who shall neglect or refuse to obey the Rules and Regulations so to be settled at the said Annual Sessions of the Peace, as to them shall appear to be just and equitable.

Justices to appoint Penalties for neglect of obeying such Regulations.

IV. Provided, That such Pains or Penalties to be inflicted, shall not exceed the Sum of Forty Shillings each.

Not to exceed 40s.

C A P. XIII.

An A C T for building a publick *Slaughter House* in the Town of *Halifax*, and for regulating the same.

Preamble.

A Slaughter House to be built for the use of Persons killing Cattle for Sale at the Public Market.

WHEREAS the killing of Cattle, Swine, and Sheep, within the Town of *Halifax*, by the Butchers at their Houses and Shops, is become a public Nuisance, occasioned by the Dung and Garbage being thrown into the Streets; Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That there shall be erected and built a Slaughter House upon the Beach, set apart for that Purpose by his Excellency; which House, when built, shall be for the public Use of all People, who may have Cattle to kill for Sale at the public Market only; and His Excellency the Governor or Commander in Chief for the Time being, is hereby empowered to cause the said Slaughter House to be built, and of such Dimensions as to him shall appear to be of sufficient Extent, Usefulness, and Convenience for the Purposes aforesaid.

No Cattle &c. to be killed, except at such Slaughter House, on Penalty of 20s. for each Beast,

For the use of the Poor.

II. And be it further Enacted, That as soon as the said Slaughter House is finished, which shall be made public, no Cattle, Swine, or Sheep of any Kind, shall be killed within the Town and Suburbs of *Halifax* for public Sale, excepting at the said Slaughter House: And all Persons acting contrary hereunto, shall forfeit and pay a Sum not exceeding Twenty Shillings for every Beast so killed, to be levied by any One of His Majesty's Justices of the Peace, upon View of the same, or recovered by the Oath of One credible Witness, before any One of His Majesty's Justices of the Peace for the said Town, for the Use of the Poor.

Not to extend to Private Slaughter Houses already built upon the Water.

III. Provided, That nothing herein contained shall debar any Person or Persons, who have private Slaughter Houses situated upon the Water on any Wharf in the Harbour, from using their said Slaughter Houses, if upon Return made by the Keeper of the Market House, it appears at the next Quarter Sessions to be inoffensive to the Public.

Keeper of the Market House to have the Care of the Slaughter House.

IV. And be it also further Enacted, That the Keeper of the Market House shall have the Care of the said Slaughter House, and shall visit the same at least thrice a Week; and shall cause the Persons who make use thereof to keep it clean and sweet, and to deprive such Persons, who shall refuse so to do, of the Use thereof until they comply therein; and shall also be empowered to sue any Person or Persons, from whom the Building may have suffered Damage, who shall be obliged to make sufficient Repairs of such Damage to his Satisfaction.

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At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First Day of July, Anno Domini 1761*, and in the First Year of the Reign of Our Sovereign Lord *GEORGE the Third, of Great Britain, France, and Ireland, KING*, Defender of the Faith, &c. being the First Session of the Third GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An A C T for the better Observation and keeping of the LORD's DAY.

~~XXXX~~ *BE* it Enacted by the Honorable the Commander in Chief, the Council, and Assembly, in order that all Persons may, on the *Lord's Day*, apply themselves to Duties of Religion and Piety, both publickly and privately, no Tradesman, Warehouse Keeper, Shopkeeper, or other Person whatsoever shall, for the future, open his, her, or their Shop or Warehouse; or either by himself or herself, or by his or her Servant or Servants, Child or Children, sell, expose or offer to Sale, upon any Bulk, Stall, or Shed, or send or carry out, any Manner of Goods or Merchandize, on the *Lord's Day* or any Part thereof. *Provided nevertheless*, that this Act shall not extend to prohibit any Persons from selling or exposing to Sale, Milk and Fresh Fish (*a*), before the Hour of Nine of the Clock in the Morning, and after Five of the Clock in the Afternoon on the said Day.

Eng Stat. 29. Car. 2. c. 7.

No Tradesman, &c. to open his Shop or sell any Goods on the *Lord's Day*.

Milk and fresh Fish excepted.

II. *And be it further Enacted*, That no Person whatsoever for the future, shall do or exercise any Labour, Work or Business, of his or their ordinary Callings, or other worldly Labour, or suffer the same to be done, by his or their Servant or Servants, Child or Children, either by Land or by Water (*b*), (Works of Necessity and

No Labour to be done on the *Lord's Day*.

(*a*) By Eng. Stat. 29. Car. 2. c. 7. Sec. 3. 1710. & 11. Will. 3. c. 24. Sec. 14. Milk and Mackerel allowed to be sold on Sundays, before or after Divine Service.

(*b*) By Eng. Stat. 3. Car. 1. c. 8. Carriers or Drovers are expressly prohibited from travelling, and Butchers from killing or selling Meat on the *Lord's Day*.

The general Prohibition by this Clause of the Prov. Act seems to comprehend the Business of every Calling either by Land or Water, but *vide* 1. Stat. 702. Res. *versus* *Brotherton*.

Charity

Eng. Stat. 1. Cap. 1.
c. 1.

Charity only excepted) or use or suffer to be used any Sport, Game, Play or Pastime, on the *Lord's Day* or any Part thereof; upon Pain, that every Person or Persons so offending in any of the Particulars beforementioned, upon Conviction thereof upon the Oath of One credible Witness, before any One of His Majesty's Justices of the Peace of this Province, or upon View of any Justice of the Peace, for every such Offence shall forfeit, and pay the Sum of Ten Shillings.

Eng. Stat. 29.
Cap. 2. c. 7. Sect. 3.

Tavern Keepers,
&c. to forfeit 10s.
for every Person
found drinking in
their Houses on the
Lord's Day.

III. *And be it further Enacted*, That no Tavern Keeper, Retailer of Spirituous Liquors, Vintner, or other Person keeping a public House of Entertainment within this Province, shall for the future on any Pretence whatsoever, entertain or suffer any of the Inhabitants or Town Dwellers of *Halifax*, or any of the Towns respectively where such Tavern Keepers, Retailers of Spirituous Liquors, Vintners, or other Persons keeping public Houses of Entertainment, respectively dwell, or others not being Strangers or Lodgers in such Houses, or such as come thither for necessary Dieting and Victualling only, to abide or remain in their Dwelling Houses, Out Houses, or Yards, drinking or idly spending their Time on the *Lord's Day*; but shall keep their Doors shut during the Time of Divine Service, on Penalty of forfeiting and paying the Sum of Ten Shillings, for every Person and Persons respectively so found drinking or abiding in such public Houses or Dependencies thereof as aforesaid: and every such Person or Persons, who shall be found so drinking or abiding in any such public House or Dependencies thereof as aforesaid, shall respectively forfeit and pay the Sum of Five Shillings.

Persons drinking,
&c. therein forfeit
5s.

* Cap. 90.
Churchwardens,
&c. to walk
through the Town
in Time of Divine
Service, to suppress
Disorders.

IV. *And be it further Enacted*, That the Church Wardens * and the Constables, or any One or more of them, shall once in the Forenoon, and once in the Afternoon, in the Time of Divine Service, walk through the Town to observe and suppress all Disorders, and apprehend all Offenders whatsoever contrary to the true Intent and Meaning of this Act: And they are hereby authorized and empowered to enter into any public House of Entertainment, to search for any such Offenders, and in Case they are denied Entrance, they are hereby empowered to break open, or cause to be broke open, any of the Doors of the said House, and enter therein; and all Persons whatsoever are strictly required and commanded to be aiding and assisting to any Constables or other Officers in their Execution of this Act, on the Penalty of Ten Shillings Current Money for every Neglect.

Penalty for not at-
tending Divine S-
ervice once in three
Months.

V. *And be it further Enacted*, That if any Person or Persons whatsoever, being of the Age of Twelve Years or upwards, being able of Body, and not otherwise necessarily prevented by real Sickness, or other unavoidable Necessity, shall for the Space of Three Months together, absent himself or herself from the public

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may be execute

blick Worship on the *Lord's Day*, shall be subject to a Fine, (*that is to say*) for every Head of a Family Ten Shillings, and for every Child or Servant Five Shillings, to be recovered, upon Complaint, before any One of His Majesty's Justices of the Peace, who is hereby impowered to cause the same to be levied (c).

VI. *All Fines and Penalties* incurred by this Act are to be to the Use of the Poor of the Town where such Offence is committed; and the Justice and Justices before whom any Person or Persons shall be convicted of offending against this Act, are required to make a Record thereof, in a Book to be kept by him or them.

Fines to be to the Use of the Poor.

VII. *Provided*, That no Person shall be prosecuted for any Offence beforementioned, unless they be prosecuted for the same within Ten Days after the Offence committed.

Prosecution in ten Days.

VIII. *And be it further Enacted*, That every Justice of the Peace shall have full Power and Authority, either upon his own View, or other legal Conviction of any Offender or Offenders against this Act or any Part thereof, to levy the Penalties herein before respectively mentioned, in Case the same shall not, upon such Conviction, be paid by the Offender or Offenders, by Distress and Sale of the Offender or Offenders Goods and Chattels with Costs; and in Default of Distress, to commit such Offender or Offenders to the common Gaol of the County, there to remain in close Confinement for a Time not exceeding Forty eight Hours, nor less than Twenty Four Hours.

Penalties to be levied by Warrant of Distress from any Justice,

in Default of Distress, the Offender to be committed.

IX. *And be it further Enacted*, That this Act shall be publickly read Four Times in every Year, *viz.* At the opening of every *Court of General Sessions of the Peace*, immediately after the Grand Jury are sworn: And also twice every Year, *viz.* On every First Sunday of December, and on every First Sunday in June, in all public Places of Worship within this Province, immediately after divine Service. *

Act to be read four Times a Year at the Sessions, and twice at Church.

(c) *Eng. Stat. 1. Eliz. c. 2. (Act of Uniformity)* shall not extend to qualified Protestant Dissenters, who repair to some Place of Religious Worship allowed by the Toleration Act 1. *Will. & Mar. c. 18. Sect. 16.* Vide Dr. Burn's *Ecl. Law*, 1. Vol. 601. and his *Exposition of Sect. 8. and 16. of 1. Will. & Mar. c. 18. & 6. Mod. 190. Britton versus Standish, & Gibb. Cod. Jur. Ecl. 521.*

* By *Eng. Stat. 29. Car. 2. c. 7. Sect. 6.* it is Enacted, "That no Person on the Lord's Day shall serve or execute any Writ, Process, Warrant, Order, Judgment, or Decree except in Cases of Treason, Felony, or Breach of the Peace: and that the Service of every such Writ, &c. shall be void; and the Persons executing the same shall be as liable to answer Damages as if they had done the same without any Warrant." *Cro. Car. 602. Prisoner's Case. Mod. 56. 2. Salk. 625.* Before this Statute Attachments were granted for Arrests on Sundays, &c. Vide 2. *Inst. 264. Britton. c. 43. Mier. c. 5. Sect. 1. Numb. 111.* By *Eng. Stat. 5. Ann. c. 9. Sect. 3.* A Judge's Warrant to apprehend a Person escaped, &c. may be executed on the Lord's Day.

C A P. II.

An A C T in Amendment of an A c t, intituled *An A c t directing the Proceedings against forcible Entry or Detainer.*

Preamble.

Minors, &c. may
recover Lands
within five Years,
after Impediment
removed,

***** HEREAS in the A c t intituled An A c t directing the Proceedings against forcible Entry or Detainer, no Provision is made for securing and maintaining the Inheritance and Title of Minors, Femes Covert, Persons Non Compos Mentis, imprisoned, or Absentees, Be it therefore Enacted by the Honorable the Commander in Chief, Council, and Assembly, That nothing in the said A c t shall extend or be construed to extend to bar the Right of any Minor, Feme Covert, or Person Non Compos Mentis, imprisoned, or absent from the Province, but they shall be intitled to sue for, and recover any Lands or Tenements within the Province aforesaid, to which they are intitled, within Five Years after such Impediment shall be removed, any Thing in the said A c t to the contrary in any wise notwithstanding.

C A P. III.

An A C T in further Amendment of an A c t, intituled *An A c t for confirming Titles to Lands and quieting Possessions.*

Preamble.

Minors, &c. may
sue within five years
after Impediment
removed,

***** HEREAS the Time allowed, by the A c t intituled An A c t for confirming Titles to Lands and quieting Possessions, to Femes Covert, Persons Non Compos Mentis, imprisoned, or in Captivity, to sue for Recovery of any Lands or Tenements within the said Province, to which they are intitled, has been deemed insufficient, nor is there in the said A c t any Provision made for the Relief of Minors or Persons out of the Province; Be it therefore Enacted by the Honorable the Commander in Chief, Council and Assembly, That nothing in the said A c t, nor any Thing therein contained, shall extend or be construed to extend, to bar the Title of any Minor, Feme Covert, or Person Non Compos Mentis, imprisoned, or absent from the Province, but they shall be intitled to sue for and recover any Lands or Tenements within the Province aforesaid, to which they are intitled, within Five Years after such Impediment shall be removed, any Thing in the said A c t to the contrary in any wise notwithstanding.

Vide a further Addition to this Act, 5. Geo. 3. c. 8.

CAP. IV.

C A P. IV.

An A C T for the registering of Marriages, Births and Deaths.

OR preventing of great Uncertainty and Inconvenience, that may happen for Want of a Register of Marriages, Births and Deaths, Be it Enacted by the Honorable the Commander in Chief, Council and Assembly, That in every Township with-

Preamble.

in this Province, where no Parish shall be established, the Proprietors Clerks, who are hereby appointed Registers of Marriages, Births and Deaths, in their respective Townships, and who are hereby impowered and required to take an Account of all Persons that shall be married, or that shall be born or shall die, within each Township respectively, and fairly to register in a Book their Names and Surnames, as also the Names and Surnames of their Parents, with the Time of their being married, or of their Birth and Death; and the Register shall demand and receive the Fee of Six Pence, and no more, for each and every Registry by him so entered, to be paid by the Persons who shall be married, and by the Parents or other nearest of Kin to, or concerned with the Party born or dying. And if any shall refuse or neglect to give Notice to the said Register, of the Marriage by the Persons themselves, or of the Birth or Death of any Person that they are so related to or concerned for, or to pay for Registering as aforesaid, within the Space of Thirty Days next after such Marriage, Birth or Death; every Person so refusing or neglecting, and being (upon the Complaint of any Register) thereof convicted before One of His Majesty's Justices of the Peace within the same County, shall forfeit and pay unto such Register, the Sum of Five Shillings; to be levied by Distress and Sale of the Offender's Goods, by Warrant from such Justice, if Payment be not made within Four Days next after Conviction as aforesaid. And every such Register shall give forth from the Registry a fair Certificate under his Hand, of Persons married, born, or dying in the Township, to any who shall desire the same; and he shall receive One Shilling and no more, for every Certificate so given.

Proprietor's Clerk, in every Township where no Parish is established, to Register Marriages, &c.

Fee Six Pence.

Penalty 5s. on Persons not giving Notice of Marriages, &c. or refusing to pay the Clerk's Fee.

A Certificate to be given by the Clerk, when required.

II. *And be it also further Enacted, That the Registry so kept, shall be sufficient Evidence in any Court of Record within this Province.*

Registry to be Evidence.

CAP. V.

CAP. V.

An ACT for preventing Damages by unseasonable burning, or Firing of the Woods.

Preamble.

XXXX HEREAS setting on Fire the Woods and Underbrush, in the dry Season of the Year, by spreading, has done much Damage in the burning Houses, Fences, Hay, &c. And Whereas in the present Situation of the new Settlements, it may be necessary that such Regulations should be made, as will be most convenient and useful for clearing the Lands with the least Risk, Be it therefore Enacted by the Honorable the Commander in Chief, Council, and Assembly, That the Justices in the several Counties within this Province, in their Quarter Sessions to be next held in March for the said Counties, shall give it in Charge to the Grand Juries, then and there summoned, to affix and settle such Regulations within their respective Counties, as they may judge most proper and convenient, to be observed and followed by the several Inhabitants within the said Counties, for preventing Damage by setting Fire to, and burning the Woods, Underbrush, or Marsh Lands at unseasonable Times, with as little Prejudice as possible to the clearing of Lands in the New Settlements. And such Rules and Regulations as shall be approved of by the Justices of the said Sessions, shall be, and are hereby declared to be the stated Rules to be kept, observed, and followed by the Inhabitants of the said several Counties, for and during the Space of Twelve Months thereafter.

Grand Jury, at March Sessions, to make Regulations, with the Approbation of the Justices, for preventing burning the Woods, &c

to be in force for Twelve Months.

The same to be done Annually.

Penalties to be settled by the Justices.

Not to exceed £5.

Prosecution in three Months.

II. *And be it further Enacted*, That the said Justices shall in like Manner at their Annual Sessions, thereafter to be held in March, proceed and give in Charge to the several Grand Juries in Manner aforesaid, and settle and approve of such Rules and Regulations for the Purposes aforesaid, to serve for the Year then next ensuing, as to them shall appear most proper and convenient.

III. *And be it also Enacted*, That the said several Justices in their Quarter Sessions as aforesaid, shall be and are hereby impowered, to settle and appoint such Pains and Penalties to be inflicted upon the Person or Persons, who shall neglect or refuse to obey the Rules and Regulations so to be settled at the said Annual Sessions of the Peace, as to them shall appear to be just and equitable.

IV. *Provided*, That such pecuniary Penalties to be inflicted, shall not exceed the Sum of Five Pounds; and that the Prosecution for any Offence against this Act, be commenced and prosecuted within the Space of Three Months after the Offence committed.

CAP. VI.

An ACT to prevent the spreading of contagious Distempers.

Enacted by the Honorable the Commander in Chief, the Council and Assembly, That every Vessel coming into the Port of Halifax, having any Person on board infected with any Plague, Small Pox, Malignant Fever, or other contagious Distemper, shall anchor at least Two Miles below the Town of Halifax, towards the Sea, and on her anchoring shall hoist an Ensign with the Union downwards at the Main Top Mast Head; and the Master thereof shall not permit any of the Mariners or Passengers belonging to or coming in such Vessel, to land: And the said Master shall be obliged, within Twenty Four Hours after his Arrival, to give Notice thereof to the Governor, Lieutenant Governor, or Commander in Chief for the Time being, of the State, Condition, and Number of the Sick Persons on board his Vessel, and shall conform himself to such Orders and Directions as he shall receive from the Governor, Lieutenant Governor, or Commander in Chief, both for the performing Quarentine, for the Airing and Cleansing the Passengers, Vessel, and Goods on board, and for removing the infected and Sick Persons out of the said Vessel.

Masters of Vessels directed how to conduct themselves on their Arrival in the Port of Halifax, having Persons on board infected with any contagious Distemper.

II. And be it further Enacted, That before any such sick or infected Persons be put on Shore, the Master of such Ship or Vessel shall give Security for the Payment of the Charge of removing them on Shore, and also for the necessary Refreshments, Medicines, and Attendance, which shall be ordered and directed by the Governor, Lieutenant Governor, or Commander in Chief.

and to give Security for paying the Charges of removing them, &c.

III. And be it further Enacted, That any Master or Masters of any Vessel or Vessels, who shall not conform themselves to the Rules and Directions prescribed by this Act, shall be liable to pay a Fine not exceeding One Hundred Pounds, on due Conviction thereof, to be recovered by Bill, Complaint, or Information, in any of His Majesty's Courts of Record.

Penalty £100. for not conforming to this Act.

IV. And be it further Enacted, That for the preventing any infectious Distempers from being brought into, and spreading in any of the other Towns within this Province, any One or more Justices of the Peace, residing within or nearest to such Town within this Province, where any Vessel infected with the Small Pox or Infectious Distemper, shall arrive, shall forthwith take care to prevent and restrain all Persons belonging to or transported in such Ship or Vessel, from coming on Shore; or if any be before on Shore, to send them on board again; as also to restrain Persons from going on board such Ship or Vessel, and to that End may make out a Warrant directed to the Constable of

Powers of Justices of the Peace at other Towns.

any such Town, who are accordingly impowered and required to execute the same; and such Justice or Justices are forthwith to transmit the Intelligence thereof, to the Governor, Lieutenant Governor, or Commander in Chief, for their Direction and Order thereon.

C A P. VII.

An A C T for the Amendment of an A&t intitled, *An Act concerning Marriages and Divorce, and for punishing Incest and Adultery, and declaring Polygamy to be Felony* *.

* 32 Geo. 2. c. 17.

Preamble.

* Cap. 17.

Causes of Divorce.

WHEREAS by a Clause in an A&t made and passed in the Thirty Second Year of His late Majesty's reign, intitled An A&t concerning Marriages and Divorce, and for punishing Incest and Adultery, and declaring Polygamy to be Felony *, it is Enacted, " That no Marriage shall be declared null " and void, except for the Cause of Impotence, or of Kindred " within the Degrees prohibited in an A&t made in the Thirty Second " Year of King HENRY the Eighth intitled, *An Act concerning Pre- " contracts, and touching Degrees of Consanguinity*; and that no De- " cree for Divorce shall be granted for any other than the two foregoing " and the two following Causes, viz. That of Adultery, and that of " wilful Desertion and withholding necessary Maintenance for Three " Years together; in any of which Cases every Person suing for a Di- " vorce, shall be intitled to a Decree for that Purpose, to be obtained " from the Governor, or Commander in Chief for the Time being, and " His Majesty's Council, who shall have full Power and Authority to grant " the same." Which Clause has been found to be inconsistent with the Laws of England†, Be it therefore Enacted by the Honorable the Com- mander in Chief, the Council and Assembly, That the Causes for which Marriages shall be declared null and void, shall be in all Causes of Im- potence, of Precontract and Kindred within the Degrees prohibi- ted in an A&t made in the Thirty Second Year of King HENRY the Eighth, intitled, *An Act concerning Precontracts, and touching De- grees of Consanguinity*, of Adultery, and of Cruelty, and for none other Causes whatsoever.

† By the Laws of England. the Causes of Divorce, dissolving the Bond of Marriage are. Precontract, Impotence, Consanguinity, Affinity, & *Causa Metus ante Nuptias*; which being precedent Impediments, the Marriage was a Nullity, & *ab Initio* void. Adultery and Cruelty being subsequent to the Marriage, tho' they are proper Causes for temporary Separation *à Mensis & Thoro*. yet they do not affect the Validity of the Marriage, and consequently cannot, as in themselves, dissolve *à Vinculo Matrimonii*, nor can such Divorce bar the Wife of Dower, or bastardize the Children. Co. Lit. 235. a. The principal Ground of Amend- ment by this A&t seems to have been, the Permission of Divorce for wilful Desertion, &c. as not agreeable to the Laws of England, for this Cause is now omitted by the A&t, and all the other Causes are, as in the former A&t, inserted.

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II. *Provided*, That nothing herein contained, shall be of any Force or Effect until His Majesty's Pleasure shall be further known herein.

Act suspended till
His Majesty's Plea-
sure be known.
Confirmed by His
Majesty in Council.

C A P. VIII.

An A C T to enable Creditors to receive their just Debts, out of the Effects of their absent or absconding Debtors.

*Be it Enacted by the Honorable the Commander in Chief, the Council, and Assembly, That it shall and may be law-
ful for any Person intituled to any Action for any Debts,
Dues or Demands whatsoever, against any Person ab-
sconding or absent out of this Province, to cause the Goods and
Estate of such absconding or absent Person to be attached, in whose
Hands or Possession soever the same are, or may be found: And
the Attaching of any Part thereof shall secure and make the Whole,
that is in such Person's Hands, liable in the Law to respond the
Judgment to be recovered upon such Process, if so much there be,
and no further, and shall be subjected to be taken in Execution
for Satisfaction thereof, or so far as the Value thereof will extend,
and the Person in whose Hands they are shall expose them accord-
ingly.*

Goods and Estate
of absconding
Debtors may be at-
tached, and

subject to Execu-
tion.

II. *And be it further Enacted, That where no Goods or Effects
of such absent or absconding Person in the Hands of his Attorney,
Factor, Agent, or Trustee, shall be exposed to view, or can be
come at so as to be attached, it shall and may be lawful to and for
any Person intituled to any such Action as aforesaid, to file a Decla-
ration against such absent or absconding Person, in the Clerk's Of-
fice of the Inferior Court of Common Pleas in the same County where
such Factor, Agent, or Trustee lives, therein particularly setting
forth his Debt and Damage, how and for what Cause it arises;
and to cause the Attorney, Factor, Agent or Trustee, of such absent
or absconding Person, to be served with a Summons out of the Of-
fice, annexed to the said Declaration, Fourteen Days before the
Sitting of the Court, for his Appearance at such Court; which
being duly served, and Return thereof made under the Officer's
Hand, shall be sufficient in the Law to bring forward a Trial, with-
out other or further Summons, unless the Principal be an Inhabi-
tant, or hath for sometime had his Residence within this Province, in
which Case a like Summons with an attested Copy of the Declaration
annexed, shall also be left at his Dwelling House, Lodging or
Place*

Agent, &c. of an
absconding Debtor
to be summoned to
Court.

Process and Trial
thereupon.

Place of his last and usual Abode, Fourteen Days before the Sitting of the Court; and such Attorney, Factor, Agent, or Trustee, upon his Desire, shall be admitted to defend the Suit on behalf of his Principal throughout the Course of the Law, and an Impar- lance shall be granted of Course at two Terms successively, that he may have an Opportunity to notify his Principal thereof; and at the third Term, without special Matter alledged and allowed in Bar, Abatement, or further Continuance, the Cause shall peremp- torily come to Trial; and if Judgment be rendered for the Plain- tiff, all the Goods, Effects or Credits of such absent or absconding Person, in the Hands of such Attorney, Factor, Agent or Trust- tee, which were in his Hands at the Time of his being served with the Summons and Declaration aforesaid, to the Value of such Judg- ment, (if so much there be) shall be liable and subjected to the Execution granted upon such Judgment, for or towards satisfying the same; and from the Time of serving the Summons as aforesaid, shall be liable and secured in the Law, in his Hands to answer the same, and may not be otherwise disposed of or converted.

Goods, &c. in
Agent's Hands sub-
ject to Execution.

Plaintiff to be Non
suit, where no Ef-
fects in supposed
Agent's Hands,

and to pay Costs.

Agents, &c. not
appearing, liable to
pay Costs.

Execution to be
levied on the
Agent's proper
Goods, &c. if he
transfer, &c. the
Effects of his Prin-
cipal.

III. *Provided nevertheless, and be it Enacted*, That if upon Sum- mons being served as aforesaid, the supposed Attorney, Factor, A- gent, or Trustee, shall come into Court at the First Term, and declare that he had not in his Hands, at the Time of the Service of such Summons, any Goods, Effects, or Credits whatsoever of the absent or absconding Person, and shall submit to an Examination upon Oath respecting the same; and if, upon such Examination, it shall appear to the Satisfaction of the Justices of the Court, that he had not any Goods, Effects, or Credits whatsoever of the absent or ab- sconding Person, in his Hands at the Time of his being summoned as aforesaid, then in every such Case, the Plaintiff shall become Nonsuit, and shall pay to him who was summoned as Attorney, Factor, Agent, or Trustee, his reasonable Costs, to be taxed in common Form by the Justices of the Court.

IV. *And be it further Enacted*, That if any Attorney, Factor, A- gent, or Trustee, being served with Summons and Declaration as aforesaid, shall not appear at the first Term, and then either ac- knowledge himself to have had in his Hands some Goods, Effects, or Credits of the absent or absconding Person at the Time of the Service aforesaid; and thereupon pray that he may be admitted to defend the Action, or otherwise submit himself to an Examination upon Oath as aforesaid, he shall be liable to pay to the Plaintiff all such Costs as shall arise upon his Suit, to be taxed by the Justices of the Court before which the Action shall be brought.

V. *And be it further Enacted*, That in Case any Attorney, Fac- tor, Agent, or Trustee, from and after the Time of his being ser- ved with Summons and Declaration as aforesaid against his Principal, (being an absent or absconding Person) shall transfer, remit, dis- pose of, or convert any of the Goods, Effects, or Credits of such absent

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absent or absconding Person, in his Hands at the Time of such Service, so that there shall not be sufficient to satisfy the Judgment, (the Debt being afterwards ascertained by Judgment of Court) or that shall not discover, expose, and subject the Goods, Effects, or Credits, of such absent or absconding Person in his Hands, to be taken in Execution for or towards the Satisfaction of the Judgment, so far as what were in his Hands at the Time of said Service, will extend, shall be liable to satisfy the same of his own proper Goods and Estate, and as of his own Debt; and a Writ of *Scire facias* may be taken out of the same Court and served upon him as the Law directs, to appear and shew Cause (if any he have) to the contrary, where upon Default of Appearance, or Refusal to disclose upon his Oath, (which Oath the Justices of such Court are impowered to administer) what Goods, Effects or Credits of the absent or absconding Person, are in his Hands, and to what Value; then Judgment shall be entered up against him of his own proper Goods and Estate, and Execution be awarded accordingly.

Agent to discover, upon Oath, the Goods, &c. of his Principal, on Failure Judgment to be entered against him of his own proper Estate, &c.

VI. *Provided nevertheless, and be it Enacted*, That if it shall appear that the Attorney, Factor, Agent, or Trustee, so summoned as aforesaid, and having in his Hands at the Time of such Summons, any Goods, Effects, or Credits of the absent or absconding Person, hath not any ways remitted, disposed of, or any ways converted the same after the Summons being served on him as aforesaid; but that he hath discovered, exposed, and subjected them to be taken in Execution, to satisfy the Judgment recovered against the absent or absconding Person as aforesaid; then the Party who commenced the Suit shall pay such Attorney, Factor, Agent, or Trustee, his reasonable Costs, to be taxed in common Form by the Justices of the Court from which the *Scire facias* issued as aforesaid.

Agent to be allowed his Costs, upon discovering the Effects, &c. of his Principal, and subjecting them to satisfy the Judgment.

VII. *And be it further Enacted*, That the Goods, Effects, or Credits, of any absent or absconding Person, so taken as aforesaid by Process and Judgment of Law, out of the Hands of his Attorney, Factor, Agent, or Trustee, by any of his Creditors, shall fully acquit and for ever discharge such Attorney, Factor, Agent, or Trustee, his Executors, or Administrators, of, from, and against all Actions and Suits, Damages, Payments, and Demands whatsoever, to be asked, commenced, had, claimed, or brought by his Principal, his Executors, or Administrators, of and for the same; and if any Attorney, Factor, Agent, or Trustee, shall be molested, troubled, or sued by his Principal for any Thing by him done in pursuance of this Act, he may plead the general Issue, and give this Act in Evidence.

Agent to be acquitted and discharged from any Action of his Principal.

Principled in the
to a Rehearing
within three Years.

VIII. *Provided nevertheless, and be it further Enacted*, That any absent or absconding Person, against whom Judgment shall be recovered as aforesaid, shall be intitled to a Rehearing of such Cause at any Time within Three Years after such Judgment; and the Plaintiff in such Action, before any Execution shall issue on such Judgment, shall give sufficient Security to the Satisfaction of the Court, for the Repayment of all such Monies as may be levied by Virtue of such Execution, in case the said Judgment should be reversed on such Rehearing as aforesaid.

Part of this Act
only to take place,
till His Majesty's
Pleasure be
known.
*Confirmed by His
Majesty in Council.*

IX. *Provided always*, That so much of this Act only as relates to the commencing of the Action, and attaching the Goods, shall be of Force, till his Majesty's further Pleasure be known therein.

C A P. IX.

An Act for the Appointment of *Sworn Gaugers*, ascertaining their Duty, granting them an Allowance, and establishing their Fees.

Two Gauge
be appointe
Halifax.

*** *E it Enacted by the Honourable the Commander in Chief, the Council, and Assembly*, That it shall and may be lawful for His Excellency the Governor, Lieutenant Governor, or Commander in Chief for the Time being, to appoint two Gaugers for the Port of *Halifax*, who shall be sworn to the faithful Discharge of their Duty, and who are hereby authorized to gauge all Rum or other distilled Spirituous Liquors which shall be imported into, or distilled within the same, and shall perform all such gauging by the Instrument commonly called and known by the Name of Gunter's Callipers, and no other Instrument whatsoever; and who shall have an Allowance not exceeding Twenty Five Pounds per Annum each, to be paid out of the Duties arising on Rum, or other distilled Spirituous Liquors imported into, or distilled within this Province; and it shall and may be lawful for the said Gaugers to demand and receive the following Fees.

Salary £25. per An.
each.

Their Fees:

For gauging a Puncheon or Pipe	---	---	Six Pence.
A Hogthead or Tierce	---	---	Four Pence.
A Barrel	---	---	Two Pence.

and other Cask in Proportion, and no more, to be paid by the Seller.

The same Fees at
the Out Ports, and
0.1. per Mile for
Travel.

II. *Be it further Enacted*, That for every other Port or Town within this Province, where no Distilling House is erected, and where it may be necessary for a Gauger to be appointed, the said Gauger

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Gauger shall be intitled to receive the same Fees, as is herein be-
fore established for the Port of Halifax, with a further Allowance
of Six Pence a Mile for his Travel.

III. *And be it further Enacted*, That if a Gauger to be ap-
pointed as aforesaid, shall neglect to attend upon due Notice given
for the gauging any Rum, or other distilled Spirituous Liquors im-
ported into, or distilled within the Province, shall forfeit and pay
for every such Neglect the Sum of Five Pounds with Costs, upon
Conviction thereof by the Oath of One credible Witness before
any Two of His Majesty's Justices of the Peace, to be recovered by
Warrant of Distress from under the Hand and Seal of said Justices,
one Moiety whereof to be paid to the Person who shall inform and
sue for the same, the other Moiety to the Overseers of the Poor, for
the Uses of the Poor of the Town where such Offence shall be
committed.

Penalty £5. on any
Gauger neglecting
his Duty.

IV. *Provided always, and it is hereby further Enacted*, That no
Fees shall be demanded by the Gaugers as aforesaid, for gauging
any Stock of Rum, or other distilled Spirituous Liquors made up
at the Distilling Houses within this Province.

No Fees to be taken
at the Still Houses.

C A P. X.

An Act in Addition to an Act intituled, *An Act in Ad-
dition to an Act intituled, An Act for preventing
Trespasses*†.

† 33. Geo. 2. c. 14.

W H E R E A S in and by an Act made and passed in the 33^d
Year of His late Majesty's Reign, intituled An Act in Ad-
dition to an Act intituled, An Act for preventing Tres-
passes*, it is among other Things enacted, "That the Jus-
tices in their Quarter Sessions in all other Counties, (Halifax excepted)
" within this Province, shall be impowered and are hereby directed to
" make Regulations for preventing Trespasses, by Horses, Swine, Sheep,
" Goats and Near Cattle, in manner as shall be most agreeable to the
" Circumstances of such County, or Townships therein." But no Penal-
ty is therein mentioned to be inflicted on such as shall transgress such
Regulations made as aforesaid; Be it therefore Enacted by the Honour-
able the Commander in Chief, the Council and Assembly, That any
Person transgressing such Regulations so made by the Justices
in the Sessions as aforesaid, for the preventing of Trespasses as a-
foresaid, shall be subject to a Fine not exceeding Forty Shil-
lings; to be recovered, on Complaint or Information, before any
Two of His Majesty's Justices of the Peace for the County wherein
the

Preamble.

* c. 14.

Persons trans-
gressing Regula-
tions made at
Sessions subject to
a Fine not ex-
ceeding 40s.

the Offence shall be committed, or before the Sessions in said County.

For a further Addition to this Act, 1. Geo. 3. Cap. 15.

C A P. XI.

An Act for the Relief of the Poor of the Town of *Halifax*, and indigent Persons in the new Settlements.

Preamble.

WHEREAS it has been represented to the General Assembly, that by Reason of the great Drought of the present Season, which is likely to shorten the expected Crops, and other Causes and Accidents, many poor People of the New Settlements will be in imminent Danger of the want of Bread Corn. And Whereas there are sundry Necessaries still wanting for the Work House at *Halifax*, as well as for the Support of such poor People in Town as are proper Objects of Charity, altho' not fit to be sent to a Work House. And Whereas the present State of the Province Funds will not admit of affording the necessary Supplies, without injuring such Persons as have large demands for Bounties, Premiums, and Debts contracted by the Government, that hitherto remain unpaid: Be it therefore Enacted by the Honourable the Commander in Chief, Council and Assembly, That the Governor, Lieutenant Governor, or Commander in Chief of the Province for the Time being, be and is hereby empowered to borrow a Sum of Money, not exceeding Eight Hundred and Fifty Pounds, of the present Currency, on the Credit of the Province Funds; Seven Hundred Pounds whereof to be applied for purchasing Grain for the Relief of such Poor in the said new Settlements as may be in real want thereof, for their Support during this ensuing Winter; and the remaining One Hundred and Fifty Pounds to be applied for purchasing a Loom and Copper, and for digging a Well and building an Oven at the said Work House, and the Residue for supporting such of the Necessitous Poor in the Town of *Halifax* and its Suburbs, as are not in a Condition to be sent to the said Work House, and to be under the Direction and Management of the Overseers of the Poor for the Time being.

£700. to be borrowed on the Credit of the Province Funds.

£700. to purchase Grain for the Poor in the New Settlements,

£150. for the Use of the Workhouse, and the Poor at Halifax.

To be repaid with lawful Interest.

II. And be it further Enacted, That any Sum so borrowed, not exceeding the said Sum of Eight Hundred and Fifty Pounds as aforesaid, shall be paid back to the Lender or Lenders thereof, at the Expiration of One Year complete from the Date of such Loan, with lawful Interest to the said Time of Payment, and thereafter till paid, by the Treasurer or Keeper of the Province Funds for the Time being, if any Monies shall then remain in his Hands after paying the several Bounties and Premiums, and other Debts already contracted by the Government for Public Buildings or otherwise; and in case no Surplus shall remain in the Treasury, when the borrowed Money aforesaid shall become due, the same shall be paid

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paid with Interest as aforesaid, out of the then growing Duties on Wines, Beer, Rum, and other distilled Spirituous Liquors.

III. *And be it further Enacted*, That no Person in the New Settlements shall be intitled to receive any Share or Part of the aforesaid Bounty of Grain, for the Support of themselves or their Families, until Oath shall first have been made before a Magistrate, that he or she cannot possibly subsist themselves or Families without Relief; which Oath shall be certified by the Magistrate before whom the same shall be made, to the Person or Persons who shall be charged by the Governor, Lieutenant Governor, or Commander in Chief, to distribute the said Grain.

No Persons in the New Settlements to be relieved, unless they make Oath that they cannot subsist without such Relief.

C A P. XII.

An Act for prohibiting the Exportation of *Raw Hides, Sheep or Calf Skins*, out of this Province, other than for *Great Britain*; and to prevent the Cutting, Splitting or Flawing of Hides.

***** *HEREAS* the Exportation of Raw Hides, Sheep and Calf Skins out of this Province, except to Great Britain, has been found to be a great Prejudice to the same; Be it therefore Enacted by the Honorable the Commander in Chief, Council, and Assembly, That from and after the Tenth Day of August, 1761, no Person or Persons shall load on board any Ship or Vessel for Exportation, any Raw Hides of any Ox, Bull, Steer or Cow, or any Sheep or Calf Skin, before the Master of such Ship or Vessel shall have given Bond to the proper Officer at *Halifax*, or at any other Port within the Province to such Person as shall be appointed for that Purpose, in the Value of One Hundred Pounds Currency, with sufficient Security that the same shall be by the said Ship or Vessel carried to *Great Britain* and to no other Place, and be there landed and put on Shore (the Danger of the Seas only excepted) and shall within Twelve Months, return a Certificate that the same have been so landed: And if any Person shall presume to load on board any Ship or Vessel any Raw Hides or Skins as aforesaid, before Bond be given as aforesaid, he shall forfeit the same, and the Master of the Vessel shall forfeit the Value of such Raw Hides as shall be found on board such Vessel, and if any Ship or Vessel shall carry out of this Province such Hides or Skins as aforesaid, before Bond be given as aforesaid, or any Seizure made, every Master of such Ship or Vessel shall forfeit and pay double the Value of the same, and the Shipper treble the Value of the Hides or Skins so shipped.

Preamble.

No Raw Hides, &c. to be loaded on board any Vessel, until Bond be given that the same shall be landed in Great Britain,

On Penalty of being forfeited.

Penalty on Masters of Vessels carrying the same out of the Province.

II h

II. *Provided*

Prosecution to be
within Twelve
Months.

II. *Provided*, That Information, Suit, or Prosecution on the same, be had or made within the Term or Space of Twelve Months next after the Offence committed.

Exception when
under Three Half-
pence per Pound.

III. *Provided also*, That when the Current Price of Raw Hides, such as of Ox, Bull, Steer, or Cow, shall be under Three Half Pence per Pound, the same may be exported to any of His Majesty's Plantations.

Penalty 20s. for
Gashing &c. the
Hide of any Ox,
&c.

IV. *And be it also Enacted*, That if any Butcher or other Person whatsoever shall by himself or any other Person employed by or under him or them, gash, cut, split, or flaw the Hide of any Ox, Bull, Steer, Cow, Sheep, or Calf, in fleasing thereof or otherwise, whereby the same shall be impaired or damaged, and offer the same to Sale, such Butcher or other Person so offending shall forfeit and pay the Sum of Twenty Shillings, for each and every such Offence committed by them, or any other Person employed by or under him or them.

How Penalties are
to be recovered,

V. *And be it further Enacted*, That the several Fines and Forfeitures incurred by this Act, shall be recovered on the Oath of One credible Witness in Manner following, (*that is to say*) That for exporting Raw Hides, Calf or Sheep Skins, contrary to the Tenor of this Act, by Bill, Complaint, or Information, in any of His Majesty's Courts of Record in this Province, One Half thereof to be paid to the Treasurer of the Province for the Use of His Majesty's Government in said Province, the other Half to him or them that shall inform and sue for the same; and the Penalty for cutting, splitting, or flawing Hides, to be recovered before any One of His Majesty's Justices of the Peace, to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of the Justice before whom the Conviction of the said Offence is made, and for Want of Distress to suffer Twenty Days Imprisonment; and that One Half of said Penalty be paid to the Informer or Person suing for the same, and the other Half to the Poor of the Place where the Offence shall be committed.

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CAP. XIII.

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C A P. XIII.

An Act for ascertaining the Times and Places for the Holding of the *General Quarter Sessions of the Peace*, and the *Inferior Courts of Common Pleas*, for the Counties of *Lunenburg*, *King's County*, and *Annapolis*.

Be it Enacted by the Honourable the Commander in Chief, the Council, and Assembly, That the General Quarter Sessions of the Peace, and the Inferior Courts of Common Pleas, for the County of Lunenburg, shall be held in the Town of Lunenburg, on the first Tuesday of the Months of February, May, August, and November, annually: For King's County, in the Town of Horton, on the Third Tuesday of the Months of February, May, August, and November, annually: And for the County of Annapolis, in the Town of Annapolis, on the Third Tuesday of January, April, July, and October, annually.

Places and Times appointed for holding the Quarter Sessions and Inferior Courts, for Lunenburg, King's County, and Annapolis.

C A P. XIV.

An Act for the Repairing and Mending *Highways, Roads, Bridges, and Streets*, and for appointing *Surveyors of Highways*, within the several Townships in this Province.

Be it Enacted by the Honourable the Commander in Chief, the Council and Assembly, That the Grand Juries at the General Quarter Sessions of the Peace, held for the several Counties, next after the First of January, shall annually elect, nominate, and choose two discreet and fit Persons to be Surveyors of Highways for each Town in the respective Counties, who shall be sworn to the faithful Discharge of their Office for the Year ensuing, before the said Sessions or before any One of the Justices of the Peace within or next to the said Town, for which such Surveyors shall be chosen; and any Person being so nominated and chosen, who shall refuse to accept of the said Office, or shall neglect to be sworn as aforesaid, within Fourteen Days next after such Nomination, or having accepted shall neglect his Duty, shall forfeit for every Refusal or Neglect, Five Pounds, to be recovered by Bill, Plaint, or Information, in any of His Majesty's Courts of Record; and the Forfeiture shall be applied for the Repairing of the Highways.

Two Surveyors of Highways for each Town to be chosen at the Quarter Sessions next after the 1st January Annually.

Persons refusing to serve &c. forfeit £5.

* *Eng. Stat. 3. & 4. Will. 4. Mar. c. 12.* Directs the Manner of appointing Surveyors of the Highways in England, who must survey and present on Oath, to some Justice of the Peace, &c. the State and Condition of the Highways, &c.

Each Person's Pro-
portion of Labour
to the Highways,
&c.

Penalty for Neglect
of Labour.

Constables to make
out Lists of Persons
liable to Labour on
the Highways &c.

and deliver the
same to the Survey-
ors.

Labour on the
Highways to be
done between the
1st of April and the
1st of November,
Yearly.

Surveyors excused
from Labour.

It is And be it further Enacted, That every Person within each Township keeping any Cart, Team, or Truck, shall send on every Day appointed by the said Surveyor of Highways, One Cart or Team, or Truck, with Two Oxen or Two Horses, and One able Man to drive the same, for Four Days in every Year, to work on the Highways, Roads, Streets, or Bridges, allowing Eight Hours to each Day's Work; and such Person not attending or neglecting to perform the said Duty, shall forfeit for every Day's Neglect, Ten Shillings; and that every other Householder or Labourer, not being an hired Servant for a Year, shall, on every Day appointed as aforesaid, either by himself or other sufficient Person to be hired by him, provided with such necessary Implements as shall be directed by the said Surveyor, work for the Space of Six Days in every Year, on the said Highways, Roads, Streets, or Bridges, within the Township where they respectively dwell; and such Persons not attending or neglecting to perform the said Duty, shall forfeit Three Shillings for every Day's Neglect; and any One of the Justices of the Peace within the County where the Offence is committed, is hereby empowered, on Complaint made to him by the said Surveyor of Highways, to summon the Person so neglecting, and upon his Non Appearance, Refusal, or Neglect to pay the Forfeiture, shall levy the same by Warrant of Distress; and the Money so levied shall be immediately paid into the Hands of the Surveyor for the Repairs of the Highways.

III. And be it further Enacted, That the Constables of the several Townships in this Province, shall make out a List of all such Persons who are Owners of Teams, Carts, or Trucks, as also of every other Householder and Labourer within their respective Townships; and shall in Writing (making an equal Division) set out to the Surveyors of Highways, the several Roads, Highways, and Streets, on which each of them shall respectively labour; and deliver also a List, signed by them, of such Persons as shall live within the District wherein such Highways, Roads, or Streets, are allotted to each of them, to be employed by them respectively, and who accordingly shall be reputed to be the Persons obliged by this Act to Labour.

IV. And be it further Enacted, That the said Surveyors of Highways shall, and are hereby empowered, in the fittest and most seasonable Time, between the First Day of April, and the First Day of November, Yearly (Seed Time and Harvest only excepted) to summon the Inhabitants contained in their Lists respectively, giving them at least Six Days Notice of the Time and Place where he proposes to employ them; and shall there oversee and order the Persons so summoned, to labour in making, mending, or repairing the Highways, Roads, Streets, and Bridges, in the most useful manner, during the number of Days appointed by this Act for each Person to Labour; and the Surveyor of Highways shall himself be

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excused from any other Service on the Highways, than the summoning, ordering, and directing thereof.

V. And Whereas the Labour of Men may be more useful, than the employing Teams, Carts, or Trucks, in some Towns, Be it therefore Enacted, That when any Surveyor of Highways shall Judge the Labour of Men more useful and necessary than that of Carts, Teams, or Trucks, the Persons who by this Act are to find Carts, Teams, or Trucks, shall be obliged under the like Penalty, to send two labouring Men instead thereof, furnished with necessary Implements as aforesaid.

Owners of Carts, &c. to send two Men instead of a Cart, if judged necessary by the Surveyor.

VI. And be it further Enacted, That the Surveyors of Highways shall, at the Expiration of their Office Annually, account at the General Quarter Sessions of the Peace, for all the Fines received by them for the Use of the Highways, and shall pay the Overplus (if any in their Hands) to their Successors in the said Office, for the aforesaid Uses, under the like Penalty as for any other Neglect of Office.

Surveyors to account to the Quarter Sessions.

Vide an Addition to this Act, 5. Geo. 3. c. 2.

Eng. Stat. 13. Ed. 1. (Statute of Winchester) c. 5. 2. & 3. Pb. & Mar. c. 8. Stat. 2. 22. Car. 2. c. 12. Stat. 9. For Exposition of these English Statutes, Vide 1. Hawk. P. C. 204. & Seq. and Dalton. c. 50.

CAP. XV.

An Act in Addition to, and Amendment of an Act, intituled *An Act for preventing Trespasses**,

* 32. Geo. 2. c. 14.

***** HEREAS in and by an Act, intituled An Act for preventing Trespasses, it is Enacted, "That no Swine shall be permitted to go at large within the Streets, Lanes, or Suburbs of Halifax," and the Means therein provided to prevent the same, has hitherto proved ineffectual: And Whereas Goats going at large has been found pernicious and destructive; Be it therefore Enacted by the Honourable the Commander in Chief, the Council, and Assembly, That it shall and may be lawful for any Person whatsoever, to take and seize all Swine and Goats going at large within the Streets, Lanes, or Suburbs of Halifax, and upon Proof thereof on the Oath of One credible Witness, before any One of His Majesty's Justices of the Peace for the said Town and County, the same shall be by him declared forfeited; One Third of the Value of which to be paid to the Prosecutor, and the Remainder to and for the Use of the Poor of the Town of Halifax, and shall be accordingly disposed of by him for their Use.

Swine or Goats going at large in Halifax, shall be forfeited.

One Third to the Prosecutor, the Remainder to the Poor.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First* Day of *July*, Anno Domini 1761, in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France*, and *Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Seventeenth Day of *March*, 1762, in the Second Year of His said Majesty's Reign; being the Second Session of the Third GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT for the regulating Innholders, Tavern-keepers, and Retailers of Spirituous Liquors.

Be it Enacted by the Lieutenant Governor, Council, and Assembly, That from and after the Publication hereof no Retailer, Innholder, Tavern or Alehouse Keeper, who shall sell upon Trust or Credit, any Wine, Strong Beer, Ale, Brandy, Rum, or other Spirituous Liquors, mixt or unmixt, to any Soldier, Sailor, Servant, or Day Labourer, or other Person whatsoever, to the Amount of any Sum exceeding the Sum of Five Shillings, shall have any Remedy to recover the same, either at Law or in Equity, against any of the Persons aforesaid, their Executors or Administrators.

**No Debts to be re-
covered by Re-
tailers, &c. for
Wines, &c. sold to
any Soldier. &c.
for any Sum above
Five Shillings.**

Pledges for Pay-
ment of any Sum
above 5s. to be re-
stored by Order of
a Justice of the
Peace.

II. *And be it further Enacted*, That in Case any Soldier, Sailor, Servant, Apprentice, bound Servant, or Negro Slave, or other Person whatsoever, shall leave any Pawn or Pledge, as a Security for the Payment of any Sum exceeding Five Shillings, contracted in such Manner, such Soldier, Sailor, Servant, Apprentice, bound Servant, or Negro Slave, or other Person whatsoever, or the Masters or Mistresses of such Servant, Apprentice, bound Servant, or Negro

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Negro Slave, may complain to any Justice of the Peace where such Retailer, Innholder, Tavern or Alehouse Keeper, or any other Persons whatsoever, receiving such Pawns or Pledges, usually resides, that such Pawn or Pledge is detained from him or her by such Retailer, Innholder, Tavern or Alehouse Keeper, or any other Person whatsoever, and having made Proof thereof upon Oath, or otherwise to the Satisfaction of said Justice, such Justice of the Peace is required, by Warrant under his Hand and Seal, to compel such Retailer, Innholder, Tavern or Alehouse Keeper, or other Person whatsoever, by Distress and Sale of his Goods, to restore the aforesaid Pawn or Pledge to the Party complaining, or to make him or her Satisfaction for the Loss or Abuse thereof; and shall further be subject to a Fine not exceeding Twenty Shillings, for the Use of the Poor, and Costs of Prosecution.

III. *And be it further Enacted*, That no Retailer or Person whatsoever, shall harbour or suffer any Apprentice, bound Servant, or Negro Slave, to sit drinking in his or her House, nor sell or give him or them, nor suffer to be sold or given him or them, any of the Liquors aforesaid, without special Order or Allowance of their respective Masters or Mistresses, on Pain of forfeiting the Sum of Twenty Shillings for every such Offence, together with the Charges of Prosecution; to be recovered, upon Conviction on the Oath of one credible Witness, before any One of His Majesty's Justices of the Peace within the Town or Precinct where the Offence shall be committed, or such other Proof as shall be to the Satisfaction of such Justice, and to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of the said Justice, and for Want of sufficient Distress; such Justice shall and may commit such Offender to His Majesty's Gaol; there to remain for the Space of One Month, or till he shall have paid and satisfied the same. And such Sum so levied shall, by the said Justice be paid into the Hands of the Overseers of the Poor of the Town or Precinct where the Offence shall be committed, to be by them applied to the Use of the Poor of such Town or Precinct.

Retailers &c. not to suffer Apprentices, &c. to remain drinking in their Houses, &c. on Penalty of 20s.

IV. *Provided always*. That nothing herein contained shall extend to debar any Retailer, Innholder, Tavern or Alehouse Keeper, from furnishing any Traveller, or Boarders in his Family, with necessary Refreshments on Credit.

... to extend to Travellers &c.

C A P. II.

An ACT to enable the Governor, Lieutenant Governor, or Commander in Chief, to borrow the Sum of *Four Thousand Five Hundred Pounds* for paying off the Public Debts, and to postpone the Payment of Bounties and Premiums.

Preamble.

***** HERE AS it appears upon the State of the Public Accounts, that a large Debt is due by the Government to sundry Persons, to discharge the Bounties and Premiums for the Year One Thousand Seven Hundred and Sixty One, and preceding Years, and also to pay off the several Accounts of the Public Works, carried on under the Direction of the Commissioners: And that the Impost and Excise Duties have been hitherto insufficient for the immediate Discharge of such Debts: And Whereas it is necessary for the Support of the Public Credit, and for the Relief of the Public Creditors, that a Sum of Money should be borrowed, and paid into the Treasury to answer these Purposes; Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That the Governor, Lieutenant Governor, or Commander in Chief of the Province for the Time being, be and is hereby empowered to borrow on Loan, a Sum of Money not exceeding Four Thousand Five Hundred Pounds of the present Currency, on the Credit of the Province Funds; and that the said Sum shall be applied to the Payment, and Discharge of the Bounties and Premiums, which were due on or before the Twenty Fifth Day of March One Thousand Seven Hundred and Sixty Two, and also the Demands of the Persons employed in the Public Works under the Direction of the Commissioners aforesaid.

£4500. to be borrowed and applied to the Payment of Bounties and Demands for the Public Works.

To be repaid, with Interest, in One Year.

II. And be it Enacted, That any Sum so borrowed for the Purposes aforesaid, not exceeding the said Sum of Four Thousand Five Hundred Pounds, shall be paid back by the Treasurer or Keeper of the Province Funds for the Time being, to the Lender or Lenders thereof, at the Expiration of One Year compleat from the Date of such Loan, with lawful Interest to the said Time of Payment, (or thereafter till paid) and that out of such Monies as shall arise from the Duties on Wines, Beer, Rum, or other distilled Spirituous Liquors which are now due or shall hereafter become due by Law.

Bounty Bills or Accounts to be received at the Treasury as Cash.

III. Provided, That if the Governor, Lieutenant Governor, or Commander in Chief, should (by a Scarcity of Money) not be able to borrow the Sum intended by this Act, that then and in such Case, any Person or Persons who shall present Bounty Bills, or Accounts of Money due from the Government, properly authenticated, said

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Notes or Accounts may be received by the Treasurer of the Province, and a Warrant shall be issued for the like Sum bearing Interest, as by this Act directed.

IV. *And to enable the Treasurer or Keeper of the Province Funds, more effectually to pay off and discharge the said Debt contracted as aforesaid; Be it further Enacted, That for the future the Payment of all the Bounties and Premiums granted by the General Assembly on Fish, Hay, Oats, Stone Walls, Hemp and Flax, be and are hereby suspended, postponed, and put off for One Year, next after the same shall become respectively due or payable by any former Law of this Province.*

Payment of future Bounties to be postponed for One Year after the same shall be due.

C A P. III.

An ACT for preventing fraudulent Dealings in the Trade with the Indians.

***** *HEREAS many Mischiefs may arise by Frauds and other Injuries, in the Trade with the Indians of this Province: And Whereas the said Indians are unacquainted with the Laws of this Province, and in what Manner they are to proceed in order to do themselves Right; Be it Enacted by the Lieutenant Governor, Council, and Assembly, That the Governor, Lieutenant Governor, or Commander in Chief, upon Complaint of any Indians within this Province, made to him or either of them, that they have been wronged or cheated of their Furs or any other Merchandize, or in any other their Trade and Dealing with other His Majesty's Subjects; that the Governor, Lieutenant Governor, or Commander in Chief is hereby desired to direct His Majesty's Attorney General to prosecute the same, either before His Majesty's Justices, or in any of His Majesty's Courts of Record in a Summary Way, as the Laws do direct, and such Prosecution shall be deemed Legal, and Judgment and Execution shall issue accordingly.*

Preamble.

The Attorney General to prosecute in behalf of any Indians, for Injuries done them.

II. This Act to continue and be in Force until further Regulations relating to the Trade with the Indians shall be made.

Act to continue till further Regulations be made.

C A P. IV.

An A C T to prevent the Firing of Squibs, Rockets, Serpents or other Fireworks.

Making, &c. any Squibs, &c. to be judged a Common Nuisance.

§§§§ *E it Enacted, by the Lieutenant Governor, Council, and Assembly,* That it shall not be lawful for any Persons to make, or cause to be made, or sell, or expose to Sale, any Squibs, Rockets, Serpents, or other Fireworks, or any Cases, Moulds, or other Implements for the making the same, or for any Persons to permit any Squibs or other Fireworks to be thrown or fired from their Houses, Lodgings, or Habitations, or Place thereto belonging or adjoining, into any public Street, Road, Passage or Water, or for any Person to throw, or fire, or be assisting in throwing or firing of any Squibs, or other Fireworks into any publick Street, House, Shop, Highway, Road, Passage or Water; and that every such Offence shall be judged a Common Nuisance.

Persons making the same, &c.

forfeit 40s.

One Half to the Poor, the other Half to the Informer

II. *Be it further Enacted,* That if any Persons shall make, or cause to be made, or shall give, sell, or utter any Squibs, Rockets, Serpents or other Fireworks, or any Moulds or Instruments for the making of any such Squibs, Rockets or Serpents, or other Fireworks, every Person so offending, and being thereof convicted before One of His Majesty's of the Peace of the Place where such Offence shall be committed, by Confession of the Party, or the Oath of One credible Witness, shall forfeit the Sum of Forty Shillings; and that if any Persons shall throw or fire, or be aiding and assisting in throwing or firing, of any Squibs, Rockets, Serpents, or other Fireworks, into any publick Street, House, Shop, Highway, Passage, or Water, every Person so offending, and being thereof convicted as aforesaid, shall forfeit the Sum of Forty Shillings; and if any Persons shall permit any Squibs, or other Fireworks, to be thrown or fired from their Houses, Shops, Lodgings, or Habitations, or in any Place thereto belonging, or adjoining to any public Street, Road or Passage, or any other Place; every such Person so offending and being thereof convicted as aforesaid, shall forfeit the Sum of Forty Shillings. The said several Forfeitures to be levied by Distress and Sale of the Goods of every such Offender, by Warrant of the Justice before whom the Conviction shall be made, the one Half of the Forfeiture to be to the Use of the Poor where the Offence shall be committed, and the other Half to the Use of them, who shall prosecute and cause such Offenders to be convicted; and if said Persons so offending shall not, immediately upon their being convicted, pay to the Justice before whom such Conviction shall be made, the said Forfeiture for the Uses aforesaid, such Justice is hereby required and empowered, by Warrant to commit such Person to the House of Correction, or Gaol

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Gaol for any Time not exceeding Fourteen Days, unless such Offender shall sooner pay such Forfeiture to the said Justice.

III. *Provided*, That this Act shall not extend to debar the Governor, Lieutenant Governor, or Commander in Chief of this Province, or the Commanding Officers of His Majesty's Troops, or any Persons employed under them or either of them, from making and firing off any such Fireworks as aforesaid.

Exception as to the Governor, &c.

IV. *Be it also Enacted*, That no Person whatsoever shall presume to make or cause to be made any Bonfires within Three Hundred Yards of any Buildings, Stacks of Hay or Corn, under the Penalty of Forty Shillings, to be recovered and applied in the Manner as mentioned in this Act.

Bonfires not to be made within 300 Yards of any Building, &c.

C A P. V.

An A C T for appointing Firewards, ascertaining their Duty, and for punishing Thefts and Disorders at the Time of Fire.

*** *E it Enacted by the Lieutenant Governor, Council, and Assembly*, That it shall and may be lawful to and for the Justices of the Peace for the Town and County of *Halifax*, from Time to Time annually in their Sessions, to appoint such Number of prudent Persons of known Fidelity, not exceeding Ten, in the several Parts of the said Town of *Halifax*, and the Suburbs thereof, as they may think fit, who shall be sworn faithfully to discharge their Trust, and shall be designated and called Firewards, and have a proper Badge assigned to distinguish them in their Office, *viz.* A Staff of Six Feet in Length, coloured Red, and headed with a bright Brass Spear of six Inches long.

Justices in Sessions to appoint Ten Persons to serve as Firewards for *Halifax*.

II. *And be it further Enacted*, That at the Times of the breaking forth of Fire in the said Town or Suburbs thereof, and during the Continuance thereof, the said Firewards shall and are hereby authorized and impowered, jointly or separately to command and require Assistance for the extinguishing and putting out the Fire, and for removing of Household Stuff, Furniture, Goods and Merchandizes, out of any Dwelling Houses, Store Houses, or other Buildings actually on Fire, or in Danger thereof, and to appoint Guards to secure and take Care of the same: As also to require Assistance for the pulling down of any Houses, or any other Services relating thereto, to stop and prevent the further spreading of the Fire; and to suppress all Tumults and Disorders. And the Officers appointed from Time to Time as aforesaid, are require upon

Duty and Authority of the Firewards.

Any Person disobeying their Orders at the Time of Fires, forfeit 40s.

upon the Notice of Fire breaking forth (taking their Badge with them) immediately to repair to the Place, and vigorously exert their Authority for the requiring Assistance, and using their utmost Endeavours to extinguish, and prevent the spreading of the Fire, and to preserve and secure the Estate and Effects of the Inhabitants; and due Obedience is required to be yielded unto them, and each of them accordingly for that Service: And for all Disobedience, Neglect or Refusal in any Person, Information thereof shall, within Two Days next thereafter, be given to any One of His Majesty's Justices of the Peace for the said County and Town, and upon Conviction thereof, before any two of the Justices aforesaid, each and every Person so convicted shall forfeit and pay the Sum of Forty Shillings, to be levied and distributed by the Direction of such Justices, among the Poor most distressed by the Fire; and in Case the Offenders are unable to satisfy the Fine, then to suffer Ten Days Imprisonment.

Two Magistrates or Firewards, may order any House to be pulled down, to stop the Fire,

III. *And be it further Enacted*, That when any Fire shall break out in the said Town of *Halifax*, or the Suburbs thereof, Two or more of the Magistrates or Firewards of the said Town shall assemble, and are hereby empowered to give Directions for pulling down any such House or Houses as shall by them be judged meet to be pulled down, for the stopping and preventing the further spreading of the Fire; and if it shall so happen, that the pulling down any such House or Houses by the Direction aforesaid, shall be the Occasion of stopping the said Fire, or that the said Fire shall stop before it come to the same, that then all and every Owner of such House or Houses shall receive reasonable Satisfaction, and be paid for the same by the rest of the Inhabitants of the said Town and Suburbs, (to be accounted from the River called Fresh Water River, to Mr. *Mauger's* Distilling House inclusive) whose Houses shall not be burnt, in the Manner hereinafter prescribed, (*That is to say*) the Owner or Owners of such House or Houses so pulled down and intitled as aforesaid, shall as soon as may be, make application to the First Justice in the Commission of the Peace for the said Town and County, or in his Absence to the next named in the said Commission, who is hereby empowered to call a *Special Sessions* of the Justices, who shall meet at the Time appointed; and the Court being satisfied, by such Proof as shall be brought, of the Justice of the Claims made, they shall then issue an Order for a Valuation of the Damages so sustained, to be made by Two or more indifferent Persons, who shall make a Return of their Proceedings, upon Oath, into the said Court by the Day affixed, whereupon the Court shall appoint Two or more Assessors, who shall Tax the Houses of the said Inhabitants that have not been burnt, at such Rate or Rates as shall by them be thought just, in Proportion to the Value of the Houses that are to be taxed, for paying the said Damages and the Charges of Valuation, Taxation, and Collection, together with the other Fees of the Court, to be settled before the making such

Owners of such Houses to have Satisfaction, by an Assessment of the Inhabitants.

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such Assessment; and the said Assessors are to report their Proceedings to the Court also upon Oath. And the said Court shall thereupon issue an Order for collecting the Monies so taxed, and in Case of Non Payment the same to be levied by Warrant of Distress to him by the Collector or Collectors of the said Tax: And as soon as the Assessments are so collected, the Court shall order Payment to be made to the Party claiming, according to the Report made and approved of the said Damages; as also the Payment of such other Charges as aforesaid.

IV. *Provided*, That if the House where the Fire did begin and break out, shall be adjudged fit to be pulled down to hinder the Increase and further spreading of the same, that then the Owner of such House shall receive no Manner of Satisfaction therefor, any Thing herein contained to the contrary notwithstanding.

No Satisfaction to be made for the House where the Fire began.

V. *And be it likewise Enacted*, That if any evil minded wicked Persons, shall take Advantage of such Calamity, to rob, plunder, purloin, imbezzle, or convey away, or conceal any Goods, Merchandizes, or Effects of the distressed Inhabitants, whose Houses are on Fire or endangered thereby, and put upon removing their Goods; and shall not restore and give Notice to the Owner or Owners, if known, or bring them into such Public Place as shall be appointed and assigned by the Governor and Council, within the Space of Two Days next after Proclamation made for that Purpose, the Person or Persons so offending, and being thereof convicted, shall be deemed Felons, and suffer Death as in Cases of Felony, without Benefit of Clergy.

Stealing at the Time of Fire, Felony without Clergy.

C A P. VI.

An Act in Addition to an Act intituled, *An Act for establishing and regulating a Militia* *.

* 32. Geo. 3. c. 6.

HEREAS by an Act intituled "An Act for establishing and regulating a Militia," it is Enacted, "That the Captain and Commissioned Officers of each Company shall, and thereby are fully impowered to nominate and appoint proper Persons to serve as Serjeants and Corporals in their respective Companies, and to displace them and appoint others in their room, as they shall see Occasion." *But Whereas no Provision is made to oblige Serjeants and Corporals, so nominated and appointed, to serve; which is found highly detrimental to the Service, when the Militia are ordered to do Duty: Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That*

Preamble.

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Penalty 40s. for re-
fusing to serve as
Sergeant or Corporal.

any Person who shall be nominated and appointed to serve as a Sergeant or Corporal, as directed in the above mentioned Act, and shall refuse to serve, shall pay Forty Shillings Fine, and another shall be chosen in his room, and so on until one do accept.

And for Neg-
lect of Duty.

II. *And be it further Enacted*, That if any Sergeant or Corporal shall be guilty of any Neglect of Duty, or shall be drunk, or be disorderly while on Duty, such Sergeant or Corporal shall forfeit and pay the Sum of Ten Shillings, or be committed and set to hard Labour for Forty Eight Hours; which said Fines shall be recovered and applied in the same Manner, as directed by the above mentioned Act for a Person refusing to serve as Clerk.

Supernumerary
Commission Of-
ficers.

III. *And Whereas there are sundry supernumerary Militia Officers, Commission'd in this Province, who are not appointed to any particular Companies; Be it Enacted*, That such Officers shall not be obliged to do Duty as Non Commissioned, or Private; But shall nevertheless hold themselves in Readiness to do Duty according to their Rank, when ordered by the Officers commanding in their respective Districts.

Military Exercises
to be Eight Days in
each Year.

IV. *And Whereas by the said Act, intitled "An Act for establishing and regulating a Militia," It is Enacted*, "That every Captain, or Chief Officer of any Company or Regiment shall be obliged, on a Penalty therein mentioned, to draw forth his Company every Three Months and no more, to exercise them in Motions, the Use of Arms, and Shooting at Marks, or other Military Exercises." *Which has been thought to be insufficient to answer the Purposes designed by the said Act; Be it therefore Enacted*, That from and after the Publication hereof, every Captain or Chief Officer of any Company of Militia, having received Orders for that Purpose from the Officer Commanding any Regiment of Militia, or any other Corps or Body of Militia, who are required to give Orders accordingly, shall be obliged on Penalty of Five Pounds, to draw forth his Company or cause them to be drawn forth for exercising them in Motions, the Use of Arms and Shooting at Marks, or other Military Exercises, Eight Days in Each Year and no more; to be regulated at the Discretion of such Commanding Officer, according as will best suit with the Convenience of the People; and as will give the least Interruption to their Labour and Industry: And every Person liable to be trained, having Three Days Notice thereof, and not appearing and attending the same, shall for each Day's Neglect, pay a Fine of Five Shillings.

Drummers to re-
main in their Com-
panies, altho' not
present in their
March.

V. *And be it further Enacted*, That if any Person be appointed to be a Drummer in any Company, he shall remain in the said Company, notwithstanding he may not reside in the District which composes the same. *Provided*, That no Drummer shall be

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obliged to serve in any Company, but in the Town where he resides, unless ordered on a March.

VI. *And be it further Enacted*, That the said Act, intituled *An Act for establishing and regulating a Militia*, together with the Additions and Amendments thereto, be construed and are hereby declared, to extend all over this Province.

Militia Acts to extend throughout the Province.

C A P. VII.

An Act for the better regulating the *Militia*, on actual Service in Time of War.

***** *HEREAS* in Times of imminent Danger, either by Invasion or sudden Attack made or threatened to be made by His Majesty's Enemies on any of His Subjects within this Province, insomuch that His Excellency the Governor, Lieutenant Governor, or Commander in Chief for the Time being, shall, by Virtue of the Power granted him by His Majesty's Commission, judge it expedient to order any Part of the Militia of this Province to march from one County or Part of the Province to another, on necessary Service; or to do Duty by mounting Guard: In such Case it is requisite that due Subordination should be observed, for preventing Mutiny, Desertion and Contempt; Be it Enacted by the Lieutenant Governor, Council, and Assembly, That if any Officer, Non Commissioned Officer, or Soldier of the Militia, under Arms for real Service, on March, or on Guard, or that shall be ordered for any of the above mentioned Duties, shall disobey Orders, or neglect doing his Duty, or shall shew any contemptuous Behaviour towards his superior Officer; if an Officer, he shall on Conviction thereof before a General Court Martial, to be constituted and appointed as herein after directed, be cashiered by the Sentence of such Court Martial; if a Non Commissioned Officer or Soldier, he shall be punished by the Commanding Officer of such Party or Guard: And it shall be lawful for the Commanding Officer of the Regiment, or of any Party, or Command, not under the Degree of a Captain, to order a Regimental Court Martial to be forthwith held for the Trial of such Offender; the said Court Martial to consist of One Captain and Two Subalterns at least, but where they can be had, of One Captain and Four Subalterns, who may give Judgment by laying a Fine on such Offender in any Sum not exceeding Forty Shillings, which Fine so ordered by the Court Martial, if he Neglect or refuse to pay, the said Offender shall be corporally punished, by riding a Wooden Horse any Time not exceeding Half an Hour, or be committed to the House of Correction to be kept to hard Labour there for any Time not exceeding Ten Days.

Preamble.

Punishment for Disobedience of Orders, or Neglect of Duty, or Conviction before a General Court Martial,

or Regimental Court Martial.

II. *Provided*

Sentence to be approved by the Commanding Officer, before it be executed.

II. *Provided nevertheless*, That no Sentence of a Regimental Court Martial shall be put into Execution until approved of by the Commanding Officer of the Regiment, or of the Detachment where the Crime may have been committed. And no Officer being the Accuser, shall sit as a Member.

Process for Desertion, &c.

III. *And be it further Enacted*, That if any Officer, Non Commissioned Officer, or Soldier, of the Militia, shall in the Field, upon a March, or in Quarters on actual Service, desert the Troop, Company or Command to which he belongs, or shall disobey Orders; if a Commissioned Officer, he shall be put under Arrest by the Commanding Officer, if a Non Commissioned Officer, or Soldier, he shall be sent to the next County or other Gaol as soon as convenient, and it shall and may be lawful for His Excellency the Governor, Lieutenant Governor, or Commander in Chief of the Province, to order a General Court Martial, by a Warrant under his Hand and Seal, for the Trial of such Offender as speedily as the Service will admit; which Court Martial shall not consist of a less Number than Thirteen Commissioned Officers of the Militia; and the President of such Court Martial shall not be under the Degree of a Field Officer, and there shall be as many Captains as conveniently can be had, the eldest Subalterns to make up the Number: And that such Court Martial shall have Power to administer an Oath to any Witness, in order to the Examination or Trial of the above Offences that shall come before them.

General Court Martial may punish by Death, &c.

IV. *And be it further Enacted*, That such General Court Martial shall have Power to punish with Death, or otherwise by Fine or Imprisonment, the Fine not exceeding Twenty Pounds, or Imprisonment not more than six Months,

Members to take the following

V. *Provided always*, That in all Trials by General Courts Martial, every Officer, before any Proceeding be had, shall take the following Oath, and the Judge Advocate is hereby authorized to administer the same.

Oath.

YOU shall well and truly try and determine according to your Evidence in the Matter now before you, between our Sovereign Lord the King's Majesty and the Prisoner to be tried.

No Sentence of Death to be given unless Twelve Members concur.

VI. And no Sentence of Death shall be given against any Offender, by any such General Court Martial, unless Twelve Officers present shall concur therein; and His Excellency the Governor, Lieutenant Governor, or Commander in Chief, shall have Power to appoint any one of his Majesty's Justices of the Peace for said Province, or other fit Person, to act as Judge Advocate at any such General Court Martial.

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VII. *And be it also Enacted*, That no Sentence of such General Court Martial shall be put in Execution before the same be approved by his Excellency the Governor, Lieutenant Governor or Commander in Chief for the Time being.

Sentence to be approved by the Governor &c.

VIII. *Provided always and be it Enacted*, That when any Part of the Militia shall be draughted to march from one Part of the Province or Town to another on real Service, all such Draughts or Detachments shall be made by Ballot from each Company, in exact Proportion according to their Numbers then fit for Duty, which shall be on the Oath of the Captain, or Commanding Officer, to the best of his Knowledge, if required; and each and every Person so draughted shall go in his own proper Person or find a good Man in his Room, and for his Neglect or Disobedience herein, he shall be confined by the Commanding Officer, and shall pay a Fine of Ten Pounds, or remain in Gaol for Three Months, and another Man shall be draughted as aforesaid to march in his Place, who shall have Half of the above Fine.

When the Militia is ordered to march, Detachments to be made from each Company by Ballot.

Penalty for refusing to march.

IX. *And be it further Enacted*, That when any Part of the Militia shall be ordered to march from one Part of the Province or Town to another not in the same County to which they belong, on real Service, there shall be allowed and paid to the Commissioned, Non Commissioned Officers, Drummer, and Private Soldiers, for so long as they shall remain on such Service, at and after the Rates following, (*That is to say*) to the Commissioned Officers at and after the same Rate as Officers of the like Rank in His Majesty's Troops; to the Serjeants after the Rate of Two Shillings, Corporals One Shilling and Four Pence, Drummers One Shilling and Four Pence, and Private Soldier One Shilling per Diem each, together with the like Allowance of Rations of Provisions of all Kinds as are distributed and allowed to the Non Commissioned Officers and Soldiers in His Majesty's Regular Forces.

Militia to be paid when ordered to march.

X. *Provided always*, That this Act nor any Thing herein contained shall take Effect or be carried into Execution, at any Time but on Occasion of actual Invasion or sudden Attack from an Enemy, or imminent Danger thereof, any Thing herein contained to the contrary notwithstanding.

Act not to take place but on actual Invasion, &c.

XI. All Fines and Forfeitures to be incurred by this Act, and not particularly appropriated, shall be applied to such Military Uses as shall be thought necessary by the Governor, Lieutenant Governor, or Commander in Chief of this Province for the Time being.

Application of Fines.

C A P. VIII.

An Act for regulating the Exportation of Fish, and the Affize of Barrels, Staves, Hoops, Boards, and all other Kind of Lumber; and for appointing Officers to survey the same.



E it Enacted by the Lieutenant Governor, Council, and Assembly, That from and after the End of this present Session of the General Assembly, all pickled Fish for Exportation shall be put in none but Barrels of Thirty one Gallons and a Half at least, and that the Fish be all of one Kind, well saved, sweet, free from Rust, and close packt, the Barrels tight, and full of sweet and strong Pickle.

Pickled Fish for Exportation to be put into Barrels of 31 Gallons and a half at least, The Fish to be all of one kind, &c.

Quality of Herring,

That Herrings be free from Oil.

of Codfish.

That merchantable Codfish have the Qualities that make them so in Newfoundland.

Size of Hoghead Staves,

That all Hoghead Staves be six Inches broad, three Quarters of an Inch thick at the thin Edge, and forty Inches long.

of Barrel Staves,

That Barrel Staves be four Inches broad, and half an Inch thick at the thin Edge, and thirty Inches long.

of Barrel Staves for the Irish Market,

That Barrel Staves for the Irish Market be thirty Inches long, five Inches broad, clear of Sap, and three Quarters of an Inch thick at the thin Edge.

of Hoghead Hoops,

That Hoghead Hoops be fifteen Feet long, substantial and well shaved, and three Quarters of an Inch broad at the small End.

of Barrel Hoops,

That Barrel Hoops be nine Feet long, and Half an Inch broad at the small End.

of Boards,

That Boards shall be full one Inch thick.

of Shingles,

That Shingles be eighteen Inches long at least, four Inches broad, and half an Inch thick at the thick End.

of Clapboards

That Clapboards be five Inches broad, half an Inch thick at the Back, and four Feet four Inches long.

Measure of Cord Wood,

That Cord Wood be full four Feet long each Stick, accounting half the Carf, the Pile to be solid, four Feet high, or an Allowance

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lowance for Wants, of eight Feet long, and each Cord sound hard Wood.

II. *And be it further Enacted*, That all Barrels used for Fish within this Province, shall be made of sound well seasoned Timber and free of Sap, and that fit Persons be appointed from Time to Time in all Places needful, to view and gauge all such Barrels; and such as shall be found tight and of the Assize before mentioned, shall be marked with the Gauger's Mark, who shall have for his Pains Eight Pence per Ton; and every Cooper shall make his Barrels of the Assize aforesaid, and shall set his distinct Brand Mark on all Barrels so made by him; on Penalty of Forty Shillings for each Offence:

Officers to be appointed.

Coopers to make Barrels of lawful Size, on Penalty of 40s.

III. *And be it also Enacted*, And whosoever shall put to Sale any Barrels new made up from old Stuff, being deficient either in Workmanship or Timber, upon Proof thereof made by one sufficient Witness, before any one of His Majesty's Justices of the Peace, he shall forfeit such Barrels, and be fined and pay the Sum of Ten Shillings for every Barrel that shall be so found defective, or shall suffer Ten Days Imprisonment for every such defective Barrel. *Provided* the said Imprisonment do not in the whole exceed the Term of Three Months.

Persons offering to Sale defective Barrels, forfeit the same, and 10s.

IV. *And be it Enacted*, That the Grand Jury for each County within the Province, shall annually at the first *General Quarter Sessions* in the Year, and before the Rising of the Court, nominate and appoint fit Persons to serve in such Towns or Places where the same shall be necessary, as Gaugers of Casks or Barrels, Cullers and Surveyors of dry and pickled Fish, Boards, Staves, Shingles, Clapboards, Hoops, and Cord Wood, and shall report to the said Court the Names of the several Persons by them so nominated and appointed for the Service aforesaid, that they may be sworn by the said Court to the due Execution of their several Offices, which, if any, so nominated and appointed, shall refuse, he shall pay the Sum of Forty Shillings, and another shall be nominated and appointed in the like Manner in his stead; and failing of any of these by Misbehaviour, Death, or leaving the Province, or changing the Town of his Residence, their Places shall be filled up by a new Nomination and Appointment in the same Manner at the next *Quarter Sessions*, or *Special Sessions* to be called for that Purpose, under the like Penalty for Refusal.

Grand Jury, at the first Sessions, annually, to appoint Gaugers, Cullers, and Surveyors.

Any Person refusing to serve, forfeits 40s.

V. *And be it further Enacted*, That every Gauger of Cask or Barrels appointed as aforesaid, shall take Care that such Cask or Barrels by him viewed and marked as aforesaid, be agreeable to the Directions of this Act; and that he mark no Cask or Barrels whatsoever defective in any of the above Particulars, on Penalty of

Gaugers not to mark defective Casks,

on Penalty of 100s. for each Cask.

of Ten Shillings for every Cask so by him marked that shall be found defective in any of the aforesaid Respects.

Surveys of
pickled Fish not to
be sold any but such
as are agreeable to
this Act.

Their Fees.

Pickled Fish not
marked to be for-
warded if offered to
Sale.

Surveyors to exa-
mine every all
pickled Fish.

Masters of Vessels,
accepting
Pickled Fish on
board, not marked,
to forfeit double
the Value.

Any Person Offe-
ring Fish after the
same has been mar-
ked by the Survey-
or, to suffer Imprison-
ment, for the
first Offence, for the se-
cond Offence,
three Months, and
for the third Of-
fence, Twelve
Months, and pay
double Damages.

Penalty £10. for
Counterfeiting the
Surveyor's Mark.

VI. *And be it Enacted, for preventing of Fraud and Deceit in the packing of pickled Fish to be put to Sale,* That in every Town within this Province where such pickled Fish are packed for Sale, the Surveyor or Surveyors of Fish of such Town, or of the Town where they are put to Sale or shipped, shall see that it be well and orderly performed, and that the said Fish be packed all of one kind and that all Cask or Barrels so packed be full, and in all other Respects answerable to the Regulations herein specified in that behalf, setting his Brand or Mark on all Cask or Barrels so by him examined and surveyed; and he shall receive of the Owner or Seller of such Fish, for surveying and marking, Two Pence per Barrel, and Four Pence per Mile for his Travel; and if any such pickled Fish be put to Sale or shipped off without the Surveyor's Brand or Mark, they shall be forfeited, or the Value thereof, by the Seller or Shipper of the same.

VII. *And be it likewise Enacted,* That all Sorts of green or pickled Fish that shall be put up for Exportation to a Foreign Market, shall be searched, surveyed, and approved by the sworn Surveyor, who shall take strict Care that the same be in all Respects agreeable to the Regulations herein before specified, and shall and may open the Head of any one Barrel the Buyer shall chuse for that Purpose, and such as shall be found good and Merchantable the Surveyor shall mark with such Brand Mark, as shall be assigned to him by the said Court, and such other Cut Mark as may denote the Kind of Fish and Time when packed. And if any Master of any Ship or Vessel, or any Officers or Mariners belonging thereto, shall receive such pickled Fish, not marked and branded as aforesaid, on board any of their Ships or Vessels, he or they who shall offend therein, shall forfeit double the Value of all such Fish; and he or they who shall own such Fish shall forfeit the same, or the Value thereof. And if any Cooper or other Person shall shunt any Fish, either on board or on Shore, after the same hath been so marked and branded by the Surveyor, and ship and export the same, the Surveyor not having allowed thereof, and marked the Casks or Barrels a new, whereinto such Fish shall be shifted; all Persons acting, ordering, or assisting therein, upon Conviction thereof before any one of His Majesty's Justices of the Peace, by the Oath of one credible Witness, for the first Offence shall suffer six Months Imprisonment, for the second nine Months Imprisonment, and for the third twelve Months Imprisonment, without Bail or Mainprize; and shall likewise pay double Damages to the Person wronged thereby. And if any Person or Persons shall presume to counterfeit the Brand Mark of any Surveyor or Gauger, or Certificate of any Culler, upon due Proof or Conviction, he or they shall incur, forfeit and

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and pay the Sum of Ten Pounds, and suffer one Month's Imprisonment.

VIII. *And be it further Enacted*, That the Culler of dry Cod Fish thereto appointed as aforesaid, shall cull all such dry Cod Fish that shall be sold or exported, and shall have One Penny per Quintal for every Quintal of Fish by him so culled, and Four Pence per Mile for his Travel, to be paid by the Owner or Seller; and such Culler shall give a Certificate under his Hand specifying the Quantity of Fish so by him culled, and the Name of the Owner, Seller, or Shipper thereof, and of the Time and Place where culled, and if any dry Cod Fish shall be put to Sale, or shipped for Exportation, without having been so culled by the Culler, or without such Certificate thereof as before directed, the same shall be forfeited, or the Value thereof, by the Seller or Shipper of the same.

Cullers of dry Cod Fish, their Duty, and Fees.

If any such Fish be put to Sale or Shipped for Exportation, without the Cullers Certificate, the same shall be forfeited or the Value.

IX. *And be it also Enacted*, That all Boards, Plank, Timber and Slit Work, that shall be imported or brought for Sale to any Town within this Province, or exported from thence to any Foreign Market, before their Delivery on Sale, shall be viewed, surveyed and also measured, by one of the Surveyors thereto appointed, (where he shall have any Doubt of the Measure) having Consideration for drying and shrinking; also shall mark anew all such to the just Contents, making Allowance for Rots, Splits and Wains, the Seller to pay the Officer Four Pence per Thousand Feet for viewing only, and Six Pence per Thousand Feet more for measuring and marking; and so in Proportion for a lesser Quantity than a Thousand Feet, and four Pence per Mile for his Travel as aforesaid: And no Boards, Plank, Timber, or Slit Work, shall be delivered upon Sale, or shipped for Exportation beyond Sea, before they have been viewed and surveyed by the Surveyor, and by him found answerable to the Description in this Act mentioned; and also measured (if Occasion be) and marked anew by one of the Officers thereto appointed, on Pain of being forfeited, or the Value thereof, by the Seller or Shipper thereof.

Surveyors of Lumber, their Duty, and Fees.

Boards &c. delivered or Shipped for Exportation, before they are marked by the Surveyor, to be forfeited or the Value.

X. *And be it Enacted*, That all Shingles and Clapboards exposed to Sale by Quantities in Bundles, that do not hold out the Number they are marked for, unless it shall appear that some have been drawn or shaken out of the Bundle, after packing, shall be forfeited; the Charge of searching and telling to be paid thereout. That every Bundle of Shingles and Clapboards that, according to the Judgment of the Surveyor, will hold out Eighteen Inches long, Four Inches broad, and half an Inch thick, agreeable to the Dimensions by this Act prescribed for Shingles, and if Clapboards, Five Inches broad, half an Inch thick at the back, and Four Feet Four Inches long, being the Dimensions by this Act prescribed for Clapboards; shall be accounted merchantable, all that are otherwise to be culled out and burnt, till what be left of said Bundles will bear the same Proportions

Shingles and Clapboards deficient in Number to be forfeited,

if deficient in Quality, to be burnt.

portions before prescribed, according to the Judgment of the said Surveyor, who shall have for his Service, if Shingles, Two Pence per Thousand; if Clapboards, Two Pence per Thousand surveying, and One Penny more per Thousand telling; to be paid by the Owner or Seller, where no Forfeiture is found for want of Tale to satisfy such Charge, and for every Thousand he culls and binds up again, Six Pence per Thousand, and proportionably for a lesser Quantity, to be paid by the Owner or Seller of the said Shingles or Clapboards, returning the Remainder to the Owner, if any be, after the Charges are paid.

All boards &c. exposed to Sale or Shipped for Exportation, without Survey, to be forfeited, or the Value, by the Seller or Shipper.

Hoghead Staves, Hoghead Hoops, &c. deficient in Quality to be burnt.

XI. *And be it also Enacted*, That if any Boards, Plank, Timber, or Slit Work, or any Shingles or Clapboards shall be exposed for Sale, or shipped for Exportation, without such Survey as above directed, had before the Delivery thereof; the whole of such Boards, Plank, Timber, Slit Work, Shingles or Clapboards, or the Value thereof, shall be forfeited by the Seller or Shipper.

XII. *And be it further Enacted*, That all Hoghead Staves, Barrel Staves, Hoghead Hoops, and Barrel Hoops, that shall be imported or brought for Sale to any Town within this Province, or exported from thence to any foreign Market, before their Delivery on Sale shall be viewed and surveyed by one of the Surveyors thereto appointed, who shall take strict Care that the same be severally conformable to the Directions of this Act; and that all Staves and Hoops, that according to the Judgment of the said Surveyor, shall be agreeable to the Directions of this Act, and none other, shall be accounted merchantable; and all that shall be found otherwise to be culled out and burnt, till what be left will bear the several Proportions by this Act prescribed, according to the Judgment of the said Surveyor, who shall have for his Service, if Staves, Six Pence per Thousand, if Hoops, Three Pence per Thousand, to be paid by the Seller.

Staves and Hoops delivered upon Sale, or Shipped for Exportation, not surveyed, to be forfeited or the Value, by the Seller or Shipper.

XIII. *And be it also Enacted*, That all Hoops exposed to Sale by Quantities in Bundles that do not hold out the Number that they are so exposed to sale for, unless it appears that some are drawn or shaken out of the Bundle after packing, shall be forfeited; the Charge of surveying Three Pence per Thousand, and Three Pence per Thousand telling, and so in Proportion for a lesser Quantity, being paid thereout. And if any Staves or Hoops shall be delivered upon Sale or shipped for Exportation to any Foreign Market, before they have been surveyed by the Surveyor, and by him found to answer the Descriptions in this Act mentioned, the same shall be forfeited, or the Value thereof, by the Seller or Shipper thereof.

XIV. *And be it further Enacted*, That all Cord Wood exposed to sale, shall on the Sale, and before the Delivery thereof, be surveyed

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vayed by the Officer for that Purpose appointed, who shall measure the same, and take Care that each Cord do answer the Qualifications by this Act required; and he shall receive of the Seller for each Survey and Examination, Two Pence per Cord and no more; and if any Cord Wood shall be sold and delivered without such Survey, the same shall be forfeited, or the Value thereof, by the Seller.

Cord Wood sold,
before it be survey-
ed, to be forfeited,
or the Value, by the
Seller.

XV. *And be it further Enacted*, That if any Person shall refuse to satisfy the Officer or Officers by this Act appointed, his Fees before mentioned, he shall have Power to detain so much of the Commodity as will make him Satisfaction for his Fees and Travel aforesaid: *Provided* that such Fees do not exceed the Sum of Twenty Shillings, and in case the same shall exceed the Sum of Twenty Shillings, then to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of any One of His Majesty's Justices of the Peace, the Surplus, if any be, after paying the Officer's Fees and Charges of Distress and Sale, to be returned to the Owner of the said Goods.

Surveyors may on
Refusal of Payment,
detain as much of
any Commodity as
will pay his Fees,
if under 20s. if
above, to be levied
by Warrant of Dis-
tress from a Justice
of the Peace.

XVI. *And be it further Enacted*, That an Oath shall be administered to the several Officers that shall be chosen to gauge, survey and search the several Articles in this Act mentioned, in the following Form, *viz.*

Officers to be
Sworn.

YOU swear, that you will from Time to Time diligently and faithfully discharge and execute the Office of _____ within the Limits whereto you are appointed for the ensuing Year, and until another be chosen in your Place; and that in and by all the Particulars mentioned in the Laws whereto your Office hath Relation; and that you will do therein impartially according to Law, without Fear or Favour.

Their Oath.

So help you G O D.

XVII. *And be it likewise Enacted*, That all Fines, Penalties, and Forfeitures arising by Force and Virtue of this Act, shall be one Half to His Majesty, towards the Support of His Majesty's Government of this Province, and the other Half to him or to them that shall inform or sue for the same; to be recovered in Manner following, (*That is to say*) Where the Forfeiture or Value thereof shall not exceed the Sum of Twenty Shillings, the same to be recoverable before any One of His Majesty's Justices of the Peace, by Oath of one credible Witness, to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of such Justice, and for want of sufficient Distress, such Offender to suffer Twenty Days Imprisonment; and where the Forfeiture or Value shall amount to above Twenty Shillings, but shall not exceed the Sum of Three Pounds, then the same to be recoverable

Penalties & Forfeitures, how to be levied, and applied.

verable before any Two of His Majesty's said Justices of the Peace upon the like Proof as above, and to be levied by like Warrant under the Hands and Seals of such Justices, and for want of sufficient Distress the Offender to suffer Sixty Days Imprisonment; and in case such Forfeiture or the Value thereof shall exceed Three Pounds, the same to be recoverable by him or them who shall inform or sue for the same, in any of His Majesty's Courts of Record in this Province.

Act to be read once a Year, at the Quarter Sessions in each County.

XVIII. *And be it Enacted*, That this Act be read and published once every Year, at the opening of the first Courts of *General Quarter Sessions of the Peace* for the several Counties in this Province.

Vide an Addition to this Act, 6. Geo. 3. c. 2. s. 5.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First Day of July, Anno Domini 1761*, in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the *Twenty Fifth Day of April, 1763*, in the Third Year of His said Majesty's Reign; being the Third Session of the Third GENERAL ASSEMBLY convened in the said Province.

C A P. I.

Exec.

An ACT for the Relief of the Poor in the Town of *Halifax*.

C A P. II.

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C A P. II.

An A C T for Regulating the Proceedings of the Courts
of Judicature.Repealed by His
Majesty in Council.*Addition to this Act 3. Geo. 3. c. 6. 2. Sess. is likewise repealed by Repeal of this Act.*

C A P. III.

An A C T to prevent Frauds in the selling of Beef,
Pork, Flour, and Biscuit, or Ship Bread in Casks.

BE it Enacted by the Lieutenant Governor, Council, and Assembly, That from and after the Publication hereof, all Casks of Beef and Pork which shall be sold, exposed to Sale, or bartered, or bargained for in any Way or Manner whatsoever within this Province, shall contain, if the Produce of America, not less than Two Hundred and Twelve Pounds of neat Meat; and if from Ireland, not less than Two Hundred Pounds of neat Meat*.

Contents of Barrels
of Beef and Pork.* This first Clause is
repealed by 4 Geo. 3.
Sess. 2. cap. 4. and
the Repeal confirm'd
by His Majesty in
Council.

II. And be it also Enacted, That from and after the Publication hereof all Flour, Biscuit, or Ship Bread, that shall be sold, bartered, or exchanged within this Province, shall be so sold, bartered or exchanged by Weight only, and in no other Way or Manner whatsoever.

Flour and Biscuit to
be sold by Weight.

III. And be it further Enacted, That no Person or Persons whatsoever shall hereafter presume to sell, barter, or exchange any Flour, Biscuit, or Ship Bread, by the Cask, or in any other Manner whatsoever, other than by Weight as above directed, on Pain of forfeiting all such Flour, Biscuit, or Ship Bread, so sold, bartered or exchanged contrary to the Intent and Meaning of this Act: And every Person or Persons offending herein and being convicted thereof, shall also further forfeit and pay the Sum of Twenty Shillings for every Hundred Weight, and so in Proportion for a greater or less Quantity of such Flour, Biscuit, or Ship Bread, so sold, bartered or exchanged; to be recovered, together with Costs of Prosecution, on the Oath of One credible Witness, before any Two of His Majesty's Justices of the Peace for the County where the Offence shall be committed.

If sold in any other
Manner, to be for-
feited,and the Offender
to forfeit 20s. for
every Ct. Weight.Conviction before
two Justices.

IV. And be it further Enacted, That all Forfeitures and Penalties incurred and arising by this Act shall be applied and disposed of in Manner following, (that is to say) all Flour, Biscuit or Ship Bread,

Application of For-
feitures and Pe-
nalties.

Bread, which shall be forfeited by Virtue of this Act, shall be applied to the Use of the Poor of the Town or Place where the Offence shall be committed; and all and every other Penalties incurred by this Act, shall be applied to the Use of the Person or Persons who shall inform and sue for the same.

Prosecution to be
within ten Days,

V. *Provided always*, That all Prosecutions to be brought by Virtue of this Act, shall be commenced within Ten Days after the Offence committed.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First Day of July*, Anno Domini 1761, in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Nineteenth Day of *October*, 1763, in the Third Year of His said Majesty's Reign; being the Fourth Session of the Third GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An Act in Addition to, and Amendment of an Act intituled, *An Act for appointing Commissioners of Sewers, made and pass'd in the 34th Year of His late Majesty's Reign*.*

* 34. Geo. 3. c. 7.

Preamble.

XXXXX *HEREAS* it has been represented, that the Commissioners of Sewers appointed by an Act intituled, *An Act for appointing Commissioners of Sewers, made and pass'd in the 34th Year of His late Majesty's Reign, are not sufficiently im-*
powered

powered by the said Act to recover from the several Persons neglecting or refusing to make Payment of his, her, or their Parts or Proportions of the Sums set, and assessed by the said Commissioners for the repairing or making the Dykes, and Drains necessary, for the Preservation of the Lands thereby rendered profitable; Be it therefore Enacted, by the Lieutenant Governor, Council and Assembly, That upon Complaint being made on Oath, before any One of His Majesty's Justices of the Peace for the County where such Complaint lies, by the Collector or Collectors appointed by the Commissioners of Sewers, for the collecting or gathering the Assessments made by the said Commissioners, the said Justice upon such Complaint, is hereby empowered and authorized, to grant a Warrant under his Hand and Seal, directed to any One of the Constables for the said County, to levy of and from the Goods and Chattels of such Person or Persons so neglecting or refusing to pay his, her, or their Part or Proportion of such Assessment, by Distress and Sale of the said Goods and Chattels, the full Sum so assessed with Costs for prosecuting the same, which Costs shall not exceed the Sum of Five Shillings, and for want of Goods and Chattels to apprehend the Bodies of all such Delinquents, and commit them to safe Custody, till full Satisfaction and Payment be made as aforesaid.

Justices empowered to grant Warrants for levying Assessments on the Goods, &c. of such as refuse to pay.

with Five Shillings Costs.

II. And be it further Enacted, That if any Proprietor or Proprietors of the Lands so dyked in, or drained, are absent, and no Person appearing in their Behalf, and have not any Goods or Chattels to answer his, her, or their Dividend or Proportion of such Assessment made as aforesaid, it shall and may be lawful for any One of His Majesty's Justices of the Peace for the County where such Lands lie, to let out, any Part of such Delinquents Lands, that may be sufficient to pay by the Produce of the same, any such Dividend or Proportion of the Sum so due,

Absentee's Lands to be let for Payment of the Assessment.

vide a further Addition to this Act, 5. Geo. 3. c. 4.

C A P. II.

An ACT to prevent Nuisances by Hedges, Wears, and other Incumbrances, obstructing the Passage of Fish in the Rivers in this Province.

WHEREAS the erecting or setting up Hedges, Wears, Fish-garths or other Incumbrances, or placing Seines across any River to stop, obstruct, or straiten the natural Course and Passage of Fish in their Seasons for spawning, must be very detrimental and may entirely destroy the Salmon, Bas, Shad, Ailwive, and Gaspero Fishery; which the new Settlers in general depend on, in

Preamble.

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River Fishery to be
regulated by the
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Quarter Sessions.

Persons transgress-
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One half to the In-
former, the other
to the Poor.

Act to continue
Two Years.

a great Measure for their Subsistence; Therefore in order to preserve that valuable Support to the Inhabitants of this Province: *Be it Enacted by the Lieutenant Governor, Council and Assembly, That the Justices in their first General Quarter Sessions held in each County, annually, shall and are hereby impowered and directed to make Rules and Orders for the Regulation of the River Fishery in their respective Counties, as they from Time to Time shall find necessary for the Preservation thereof.*

II. *And it is hereby further Enacted, That if any Person or Persons shall pre sume to erect or set up any Hedge, Wear, Fishgarth, or other Incumbrance, or place any Seine or Seines across any River in this Province, contrary to the Rules and Regulations so fixed on, and established by the Justices in their said General Quarter Sessions annually, such Person or Persons shall, upon due Conviction thereof forfeit and pay the Sum of Ten Pounds, One half of which shall be for the Informer, and the other half for the Poor of the Township, where the Offence shall be committed, to be recovered by Action, Bill, Plaint or Information in any of His Majesty's Courts of Record.*

III. This Act to continue, and be in Force for the Space of Two Years from the Publication hereof, and until the End of the Session then next following.

This Act made perpetual by 6. Geo. 3. c. 1.

C A P. III.

An Act to enable Proprietors of Lands to Assess and discharge the Expence which has accrued upon Dividing their Lands, by Virtue of a former Law of this Province.

Preamble.

Proprietors of Lands
held in common to
pay their dividend
of the Expence of
dividing them.

***** *HEREAS* by an Act of this Province intitled, "*An Act to enable Proprietors to divide their Lands, held in Common and undivided,*" sundry Proprietors of Lands within this Province, have proceeded to a Division under the Sanction of the aforesaid Act, which has since been repealed: And it is hereby enacted by the Lieutenant Governor, Council, and Assembly, That all Persons, Proprietors of Lands within this Province, who by Virtue of an Act intitled, *An Act to enable Proprietors to Divide their Lands, held in Common and undivided,* have heretofore by a Majority of the Proprietors, agreed upon, and divided their Lands, under the Sanction, and agreeable to the Direction of the said recited Act; each

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and every such Proprietor shall pay their Dividend or proportional Part of all such Expence, as may have arisen from the making such Division.

II. *And be it further Enacted*, That all Accounts of Expences incurr'd for the Services aforesaid shall, before Payment, be laid before the Justices of the Peace for each County, in their *Quarter Sessions*, who are hereby empowered to appoint proper Persons to audit said Accounts, and to make a Dividend to each Right or Share of Land in such Propriety, in just and equal Proportion; which Dividend or Proportion, when approved of by the said Court of *Quarter Sessions*, shall be paid by each Proprietor or Person in Possession of such Lands, to the Person or Persons to be appointed by the Propriety to receive the same; and if any Proprietor or other Person in Possession of any Right or Share of Land, divided as aforesaid, shall refuse or neglect to pay his, her, or their respective Dividend or Proportion as aforesaid, it shall and may be lawful on Complaint of such Receiver appointed as aforesaid, for any One of His Majesty's Justices of the Peace to issue a Warrant of Distress and Sale of the Delinquents Goods and Chattels, for the Recovery of the same, with the Charges of Prosecution.

The Accounts of such Expences to be audited by order of the *Quarter Sessions*, and approved by them, and each Proprietor to pay his Share.

III. *And be it further Enacted*, That if any Proprietors of Lands, divided as aforesaid, be absent, and no Person appearing in their Behalf, or shall be present, and have not any Goods or Chattels to answer his, her, or their Dividend or Proportion of Expences as aforesaid, it shall and may be lawful for any One of His Majesty's Justices of the Peace, residing in the Township where such Lands lie, to let out any Part of such Delinquent's Land, that may be sufficient to pay, by the Produce of the same, any such Dividend or Proportion then due.

One Justice to let the Lands of Persons unable to pay, till their Dividend is made up.

IV. *Provided always*, That if any Person or Persons shall think themselves aggrieved by any Justice of the Peace, concerning the letting their Lands as aforesaid, such Person or Persons may complain to the Justices of the County in their *Quarter Sessions*, who are hereby empowered to hear and determine all such Complaints.

Persons aggrieved thereby may complain to the Justices of the County in their *Quarter Sessions*.

C A P. IV.

An ACT to impower the Province Treasurer to borrow a Sum not exceeding the Sum of *Four Thousand Pounds*, for paying off Bounties, Premiums, and other Debts payable by the Laws of this Province.

Preamble.

***** *HEREAS the Impost and Excise Duties have hitherto been insufficient for the Discharge of the Debts due for Bounties, Premiums, and other Debts payable by the Laws of this Province; And Whereas there are many Persons who now are possessed of Certificates for Bounties, Premiums, and other Accounts, which are now due and become payable, but from the present State of the Province Funds, cannot be immediately discharged; Be it Enacted by the Lieutenant Governor, Council, and Assembly, That the Treasurer of the Province be and is hereby impowered and directed, to borrow from such Person or Persons as shall be willing to lend the same, a Sum not exceeding Four Thousand Pounds, and the Sum so borrowed shall be applied in manner as in this Act is hereafter directed, and for any Sum or Sums so borrowed, the Treasurer aforesaid shall give his Receipt or Obligation in the Form following;*

Province Treasurer to borrow £4000. And to give a Receipt for the Sums borrowed.

Province NOVA SCOTIA, the

Day of

17

Form of the Receipt.

RECEIVED of the Sum of
for the Use and Service of the Province of Nova Scotia, and in Re-
half of said Province I do hereby promise and oblige myself, and Suc-
cessors in the Office of Treasurer, to repay the said or order,
the Day of the aforesaid Sum of
with Interest at the Rate of Six Pounds per Centum per Annum. W-
ness my Hand.

Such Receipts to bear Interest at 6. per Cent.

II. *And be it further Enacted, That all Receipts so issued by the Treasurer of the Province shall according to the Tenor thereof, bear an Interest at the Rate of Six Pounds per Centum per Annum, and be in Proportion for a greater or a lesser Sum, and the Treasurer is hereby directed not to borrow, or give his Receipt for any Sum less than Five Pounds.*

Money borrowed to be applied to pay Bounties, &c.

III. *And be it also further Enacted, That the Sum so borrowed shall be applied to the Payment and Discharge of the Bounty Certificates and Premiums which are or shall become due and payable on or before the Twenty Fifth Day of March, One Thousand Seven Hundred and Sixty Four, and for all other Debts, which became due and payable by the Laws of this Province on or be-
fore*

fore the Twenty Fifth Day of March, One Thousand Seven Hundred and Sixty Three.

IV. *Provided*, That the Accounts and Vouchers of all such separate Debts, shall be first regularly audited, and certified to be justly due.

Accounts, &c. to be audited.

V. *Provided also*, That if the Province Treasurer should (by a Scarcity of Money) not be able to borrow the Sum intended by this Act, that then and in such Case any Person or Persons, who shall present Bounty Bills or Accounts of Money due from the Government, properly authenticated, said Notes or Accounts may be received by the Treasurer, who is hereby directed to give his Receipt for the said Sum, bearing Interest in Manner herein directed.

Bounty Bills, &c. to be received as Cash by the Treasurer.

VI. *And provided always, and be it further Enacted*, That if there should not be Money sufficient in the Treasury to discharge the several Receipts so issued, when the same become payable, that then and in such Case the Treasurer is hereby authorized and directed, to pay off the Interest as the same become annually due, out of such Monies as may then be in his Hands arising from the Duties of Import and Excise.

Interest to be paid Annually until the Principal shall be paid.

VII. *And Whereas the Act*, intituled, "*An Act to enable the Governor, Lieutenant Governor, or Commander in Chief, to borrow the Sum of Four Thousand Five Hundred Pounds, for paying off the public Debts, and to postpone the Payment of Bounties and Premiums*," has been found insufficient to discharge the sums of the Bounties and Premiums, that were to have been discharged by the Money borrowed by the said Act, as sundry of the said Bounty and Premium Certificates are still outstanding; *And Whereas it is reasonable that such Certificates should bear Interest, as they could not then be paid*; *For a better Remedy*, That the Treasurer aforesaid shall take and allow Interest at the Rate of Six Pounds per Centum *per Annum*, on all such outstanding Certificates, from the Date of the Loan Warrant, granted in Virtue of the said Loan Act, for Cash or Certificates received in at the Treasury.

Interest to be at the Rate of Six Pounds per Centum *per Annum*.

VIII. *And Whereas several of the principal Bounties and Premiums, granted by the Laws of this Province, are now expired, and others are expiring*; *And Whereas the several Duties granted to the King by the Laws of this Province, for Payment of Bounties, Premiums and other Accounts, will not expire before the End of the Year One Thousand Seven Hundred, and Seventy One, whereby the Treasury will be constantly supplied with considerable Sums of Money, much more than will be wanted for paying off the Interest of Money borrowed*; *Be it further Enacted*, That all Monies, which may be collected by Virtue of the several Laws of this Province, wherein the same is appropriated

Monies collected for the said purposes.

appropriated

propriated for the Payment of Bounties, Premiums, and other Accounts payable by the Laws of this Province, over and above what will pay the Interest of Money borrow'd by the Government, shall (after discharging the former Loan Creditors) be applied for paying off the Receipts given by the Treasurer for Monies borrow'd, or Bounty and Premium Certificates received, by Virtue of this Act.

C A P. V.

An Act for the Relief of Insolvent Debtors.

Persons charged in Execution may apply by Petition, to the Court from whence the Process issued, or to Two Justices in Vacation, to be discharged,

on giving an Account of their Real and Personal Estate.

The Court or Justices to make an Order to call the Creditors before them.

If Creditors fail to appear, the Court or Justices may examine into the Matter of the Petition,

and tender an Oath to the Prisoner.

BE it Enacted by the Honorable the Lieutenant Governor, Council, and Assembly, That from and after the End of this present Session, if any Person or Persons now charged, or who shall or may hereafter be charged in Execution for any Sum or Sums of Money, and shall be minded to deliver up to his, her, or their Creditors, all his, her, or their Effects, towards the Satisfaction of the Debts, wherewith he, she, or they stand charged, it shall and may be lawful to and for such Prisoner to exhibit a Petition to any of the Courts of Law within the said Province, or during the Intervals of the Sitting of such Courts, to any Two of the Justices of any such Courts, from whence the Process issued, upon which he, she, or they was or were taken or charged in Execution, certifying the Cause or Causes of his, her, or their Imprisonment, and an Account of his, her, or their whole Real or Personal Estate, with the Dates of the Securities wherein any Part of it consists, and the Deeds or Notes relating thereto, and the Names of the Witnesses thereto, as far as his, her, or their Knowledge extends therein; and upon such Petition the said Court or the said two Justices may, and are hereby required by Order or Rule of the said Court, or by Order under the Hands and Seals of the said Two Justices, to cause the said Prisoner to be brought up to the said Court, or before them the said Two Justices, and the several Creditors at whose Suit he, she, or they stand charged as aforesaid, to be summoned to appear personally, or by their Attorney in the said Court, or before them the said Two Justices, at a Day to be appointed for that Purpose; and upon the Day of such Appearance, if any of the Creditors summoned refuse or neglect to appear, upon Affidavit of the due Service of such Rule or Order of the said Court, or Order of the said Two Justices, the said Court or the said Two Justices shall and may in a summary Way, examine into the Matter of such Petition, and hear what can or shall be alledged on either Side, for or against the Discharge of such Prisoner, and upon such Examination the said Court or the said Two Justices may, and are hereby required to administer or tender to the Prisoner, an Oath to the Effect following,

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ing, which Oath the said Court, or the said Two Justices are hereby impowered to Administer.

I A. B. Do solemnly Swear in the Presence of Almighty GOD, The Oath.
that the Account by me deliver'd into

In my Petition to

Doth contain a true and full Account of all my Real and Personal Estate, Debts, Credits, and Effects whatsoever, which I, or any in Trust for me, have, or at the Time of my said Petition had, or am or was in any Respect intitled to in Possession, Remainder or Reversion, (except the Wearing Apparel and Bedding for me or my Family, and the Tools or Instruments of my Trade or Calling, not exceeding Ten Pounds in the whole) and that I have not at any Time since my Imprisonment or before, directly or indirectly, sold, leased, assigned or otherwise disposed of, or made over in Trust for myself, or otherwise, other than as mentioned in such Account, any Part of my Lands, Estate, Goods, Stock, Money, Debts, or other Real or Personal Estate, whereby to have or expect any Benefit or Profit to myself, or to defraud any of my Creditors, to whom I am indebted.

So help me G O D.

II. And be it further Enacted, That in Case the said Prisoner shall in open Court, or before the said Two Justices, take the said Oath, and upon such Examination and his or her taking the said Oath, the Creditors shall be satisfied with the Truth thereof, the said Court or the said Two Justices may immediately order the Lands, Goods, or Effects, contained in such Account, or so much of them as may be sufficient to satisfy the Debts wherewith he, or she, is or shall be charged, and the Fees due to the Provost Marshal of the said Province, and the Keeper of the Gaol or Prison from which the Prisoner was brought, to be by a short Indorsement on the Back of the said Petition, signed by the Prisoner, assigned to the said Creditors, or to one or more of them, in Trust for the rest of the said Creditors, and by such Assignment, the Estate, Interest, and Property of the Lands, Goods, Debts, and Effects so assigned, shall be vested in the Person or Persons to whom such Assignment is or shall be made, who may take Possession of, or sue for the same in his, or their own Name or Names in like Manner as Assignees of Commissioners of Bankrupts, to which Suit no Release of the Prisoner, his, or her Executors, or Administrators, or any Trustees for him or her, subsequent to such Assignment, shall be any Bar; and immediately upon such Assignment executed, the said Prisoner shall be discharged out of Custody by Order of the said Court, or of the said Two Justices, and such Order shall be a sufficient Warrant to the Provost Marshal, Gaoler, or Keeper of such Prison, to discharge the said Prisoner, if detained for the Causes mentioned in such Petition and no other; and he is hereby required to discharge

If the Creditors are satisfied of the Truth of the Prisoner's Oath, the Court or Justices may order the Lands, &c. to be assigned to the Creditors,

and the Prisoner to be discharged.

Prisoner's Lands,
&c. to be divided
among the Credi-
tors.

If Creditors are not
satisfied of the Truth
of the Prisoner's
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Two Justices; the
Prisoner to be
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to allow the Priso-
ner Eight Pounds
of Biscuit per Week,
in the mean Time,
on Failure whereof
the Prisoner to be
discharged.

Proceedings of the
Two Justices to be
effectual, and a Re-
cord thereof to be
made and returned
to the Court.

charge and set him, or her at Liberty forthwith without Fee: Nor shall such Provost Marshal, or Gaoler, be liable to any Action of Escape or other Suit or Information upon that Account, and the Person or Persons to whom the said Effects shall be assigned, paying the Fees to said Provost Marshal, Gaoler or Keeper of the Prison, in whose Custody the Party discharged was, shall and are hereby required to divide the Effects so assigned among themselves, and all the Persons for whom they shall be intrusted, in Proportion to their respective Debts: But in Case the Person or Persons at whose Suit such Prisoner was charged in Execution, or any of them, shall not be satisfied with the Truth of the Oath of such Prisoner before the Two Justices aforesaid, and shall desire further Time to inform himself or herself of the Matters contained therein, and shall insist upon his, or her, being detained longer in Prison, at his or their Suit, then the said Justices shall and may remand the said Prisoner, and direct the said Prisoner, and the Person or Persons dissatisfied with such Oath, to appear before the Court whence the Process issued as aforesaid, at a certain Day during the Sitting of the said Court then next following such Examination, and to be by them at that Time appointed, for the further Examination of the Matters contained in the said Oath; Provided the said Person or Persons so dissatisfied, do agree by Writing under his or their Hands, to supply and allow Weekly the full Quantity of Eight Pounds of good and wholesome Biscuit Bread per Week unto the said Prisoner, to be so supplied and allowed the First Day of every Week from and after the Time of such Prisoner's being foremaned, until the said Day so appointed for the farther Examination of the Truth of the Matters contained in the aforesaid Oath before the said Court as aforesaid; on Failure of the supplying of which weekly Allowance at any Time, the said Prisoner shall forthwith upon application to the said Court, or to the said Two Justices, be discharged by such Order as aforesaid; but in Case the said Prisoner shall refuse to take the Oath before the said Two Justices, or having taken the same, shall be detected of Falsity therein, he or she shall be presently remanded.

III. *And be it also Enacted*, That such Judgment, Relief, and Directions by the said Two Justices, so to be given as aforesaid, shall be as good and effectual to all Intents and Purposes, as if the same had been made in the Court out of which the Process issued, on which such Prisoner was taken in Execution; and the like Proceedings shall be had thereupon, and a Record of such Judgment shall be made up in the same Form, and returned, and certified under the Hands of such Two Justices before whom it shall be made, unto the Court from whence the Process on which such Prisoner was taken in Execution issued, to be a Record of the said Court, and to be kept as such amongst the Records there.

IV. *And be it further Enacted*, That if on the Appearance of such Prisoner or Prisoners before the said Court as aforesaid, at
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such second Day so to be appointed by the said Two Justices, the Creditor or Creditors of such Prisoner or Prisoners dissatisfied with the Truth of such Oath, before the said Two Justices, shall make Default in appearing; or in Case he, she, or they shall appear, but shall be unable to discover any Estate or Effects of the Prisoner omitted in such his, or her Petition, or to shew any Probability of his, or her, having been forsworn in the said Oath, then the said Court shall immediately cause the said Prisoner to be discharged upon such Assignment of his or her Effects in Manner as aforesaid, unless such Creditor or Creditors do insist upon his, or her, being detained longer in Prison at their Suit, and do agree by Writing under his, her or their Hands, to supply and allow Weekly the full Quantity of Eight Pounds of good wholesome Biscuit Bread per Week, unto the said Prisoner, to be supplied and allowed the first Day of every Week, so long as he, or she shall continue in Prison at his, her, or their Suit as aforesaid; on Failure of the Supply of which weekly Allowance at any Time, the Prisoner shall forthwith, upon Application to the said Court, or during the Interval of such Courts Sitting, to the said Two Justices, be discharged by such Order as aforesaid.

V. *And be it Enacted*, That in case on the Appearance of the said Prisoner, before any of the said Courts of Law in this Province, on his Petition to them at any Time during their Sitting, preferred as aforesaid, the Person or Persons at whose Suit such Prisoner was charged in Execution, or any of them, shall not be satisfied with the Truth of the said Prisoner's Oath, at that Time made, but shall desire further Time to inform himself or herself of the Matters contained therein, the said Court may and shall remand the said Prisoner, and direct the said Prisoner, and the Person or Persons dissatisfied with such Oath, to appear at another Day to be appointed by the said Court sometime within and during their then present Sessions, for that Purpose; subject in the mean Time and until such second Day, to the same Allowance to the said Prisoner, by such Person or Persons so dissatisfied with the said Prisoner's Oath, and liable to the like Discharge in Case of Default of such Allowance as is herein before directed, upon Application to the said Two Justices as aforesaid: And if at such second Day so to be appointed, the Creditor or Creditors dissatisfied with such Oath, shall make Default in appearing, or in Case he, she, or they shall appear, but shall be unable to discover any Estate or Effects of the Prisoner, omitted in such his or her Petition, or to shew any Probability of his, or her having been forsworn in the said Oath, then the said Court shall immediately cause the said Prisoner to be discharged, upon such Assignment of his, or her Effects in Manner as aforesaid, unless such Creditor or Creditors do insist upon his, or her, being longer detained in Prison at their Suit, and do agree by Writing under his, her, or their Hands, to supply and allow Weekly the Quantity of Eight Pounds of good

and

If upon the Prisoner's appearing before the Court, the Creditors shall not appear, or shew a Probability, that the Prisoner is forsworn, &c. the Prisoner to be discharged, unless the Creditor insist on his being longer detained, & agree to the Weekly Allowance of Bread;

on Failure whereof, the Prisoner to be discharged.

Proceedings when the Prisoner petitions during the Sitting of the Court.

and wholesome Biscuit Bread per Week, unto the said Prisoner, to be supplied and allowed the first Day of every Week, so long as he, or she, shall continue in Gaol, at his, her, or their Suit; on Failure of the supplying of which weekly Allowance at any Time, the said Prisoner shall forthwith upon Application to the Court, or during the Interval of such Courts Sittings, to any Two Justices of the said Court, be discharged by such Order as aforesaid; but in Case the said Prisoner shall refuse to take the said Oath, or having taken the same, shall be detected of Falsity therein, he or she shall be presently remanded.

Time limited for Prisoners to present their Petitions.

VI. *And to prevent Persons who may be charged in Execution from lying in Prison, until they have spent their Substance wherewith they should satisfy their Creditors, and afterwards taking the Benefit of this Act, where they have nothing left to deliver up to their Creditors; it is hereby Enacted, That no Person charged or to be charged in Execution, excepting those already in Gaol, shall be allowed or permitted to exhibit a Petition to any of the Courts of Law in this Province, or to any of the said Two Justices of such Courts, from whence the Process issued as is before provided, unless such Petition be exhibited, if before the Court, within Ten Days next after the first Meeting of the said Court which shall be next after such Person shall be so charged in Execution, and if before the said Two Justices, within Fourteen Days next after such Person shall be so charged in Execution:*

Tho' Prisoner's Person be discharged, his Lands, &c. to be always liable.

VII. *Provided always, That tho' the Persons of the Debtor or Debtors so discharged, shall never after be arrested for the same Debt or Debts, yet notwithstanding such Discharge the Judgment against him, or her, shall stand and remain in Force, and Execution may be taken out thereon against his, or her Lands, Tenements, or Hereditaments, Goods, and Chattels, (his, or her Wearing Apparel, Bedding for him, or herself and Family, and necessary Tools for the Use of his or her Trade or Occupation excepted) in the same Manner as if he or she had never been taken in Execution for the said Debt.*

If Prisoner afterwards be convicted of Perjury in said Oath, he shall suffer all the Pains of wilful Perjury,

VIII. *Provided also, That if any Person who shall take such Oath as aforesaid, before the said Two Justices, or before the said Court as aforesaid, shall upon any Indictment for Perjury, in any Matter or Particular contained in the said Oath, be convicted by his, or her own Confession, or by Verdict of Twelve Men, as he, or she, may be by Force of this Act, the Person so convicted shall suffer all the Pains and Forfeitures which by Law be inflicted on any Person convicted of wilful Perjury, and shall be liable to be taken upon any Process de novo, and charged in Execution for the said Debt, in the same Manner as if he, or she, had never been discharged or taken in Execution before, and shall never afterwards have the Benefit of this Act.*

and may be taken de novo, and charged again in Execution for the said Debt.

IX. *Provided,*

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IX. *Provided also*, That if the Effects so assigned, shall not extend to satisfy the whole Debts due to the Persons at whose Suit he or she was charged, and the Fees due to the said Provost Marshal or Gaoler, there shall be an Abatement in Proportion; and such Provost Marshal or Gaoler shall come in as a Creditor, for what shall be then due to him for his Fees, in Proportion with the Creditors at whose Suit he or she was charged in Execution.

Provost Marshal or Gaoler to come in as a Creditor for their Fees.

X. *And be it likewise Enacted*, That every Provost Marshal or his Deputy, Bailiff, or other Officer or Minister aforesaid, offending against this Act, shall (over and above such Penalties or Punishments as he shall be liable unto, by the Law now in Force) for every Offence against this present Act, forfeit and pay to the Party thereby grieved, the Sum of Fifty Pounds, to be recovered with treble Costs of Suit, by Action of Debt, Bill, Complaint, or Information, in any of the Courts of Law within this Province, wherein no Essoign, Protection, or Wager of Law, or more than one Imparllance shall be allowed.

Provost Marshal &c. offending against this Act, forfeits £50-

XI. *And be it Enacted*, That in Cases wherein by this Act an Oath is required, the solemn Affirmation of any Person being a Quaker, shall and may be accepted and taken in Lieu thereof, and every Person making such Affirmation, who shall be convicted of wilful and false Affirming, shall incur and suffer such and the same Pains, Penalties and Forfeitures, as are inflicted and imposed by the Laws and Statutes now in Force, upon Persons convicted of wilful and corrupt Perjury.

Quakers Affirmation to be taken instead of an Oath.

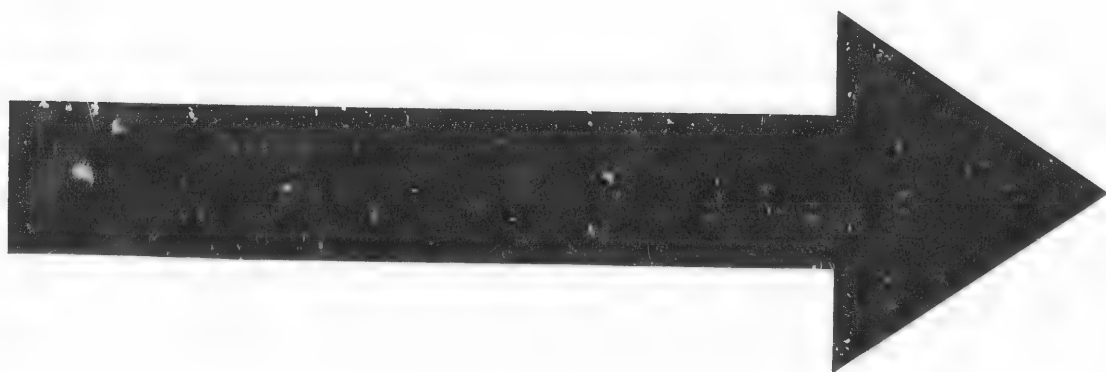
XII. *Provided nevertheless*, That nothing in this Act contained, shall extend or be construed to extend, to discharge any Debtor imprisoned, the whole Amount of whose Debts shall exceed the Sum of One Hundred Pounds; nor that this Act shall be in Force, till His Majesty's Pleasure be known therein.

No Debtor to be discharged, whose Debts exceed £100. Act suspended till His Majesty's Pleasure be known.
Confirmed by His Majesty in Council.

C A P. VI.

An A C T in Addition to an Act, intituled, *An Act for regulating the Proceedings of the Courts of Judicature.*

Repealed by His Majesty in Council.



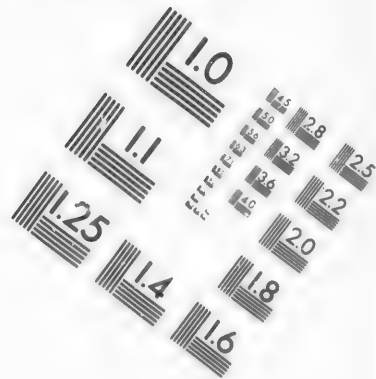
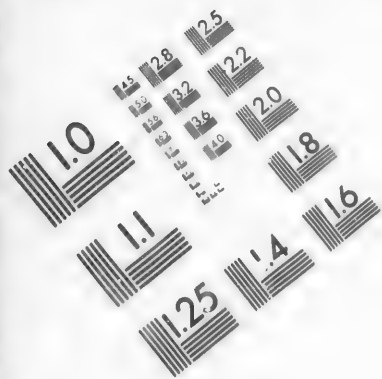
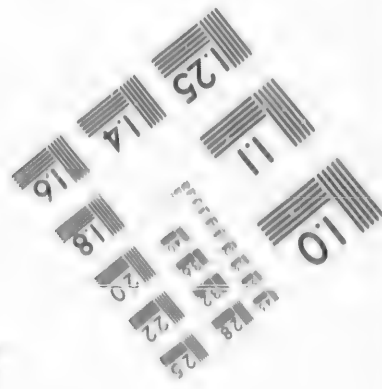
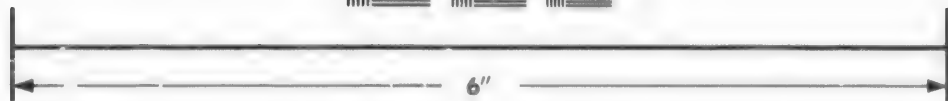
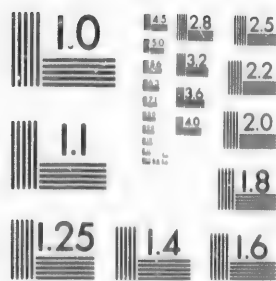


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C A P. VII.

An A C T to enable the Inhabitants of the several Townships within this Province, to maintain their Poor.

Freeholders of any Township where 50 Families are resident, may meet on the first Monday in every Year, and choose Twelve Persons to assess the Inhabitants for such Sum as shall be granted for Relief of the Poor.

§§§§ E it Enacted, by the Lieutenant Governor, Council, and Assembly, That from and after the Publication hereof, it shall and may be lawful for the Freeholders of any Township within this Province, where there are Fifty or more Families Freeholders resident, to meet on the First Monday in January Annually, previous Notice being given by the Constables of such Townships respectively (who are hereby required to notify the same to the Freeholders of each Township, at least Ten Days before the Time of Meeting) of the Time and Place of Meeting in such Township, at which Meeting of the said Freeholders then and there held, a Chairman being first chosen, the Freeholders shall proceed to choose Twelve Inhabitants of the said Township, any Nine of which to be a *Quorum*; who are hereby empowered to assess the Inhabitants of said Township for such Sum, as shall be granted by the said Freeholders for the Relief of their Poor.

Such Freeholders to vote a Sum Annually for Relief of their Poor.

II. And be it further Enacted, That the said Freeholders in such their annual Meeting, shall be and are hereby empowered to vote such Sums of Money as they shall judge necessary for the current Year to support and maintain their Poor.

Such Assessors to assess the Freeholders in equal Proportions, who shall pay the same to the Collector,

III. And be it also further Enacted, That the Twelve Inhabitants so elected in the Meeting Annually, or any Nine of them, shall be, and are hereby empowered to assess the Freeholders, and other Inhabitants, in just and equal Proportion as near as may be, for the Monies voted as aforesaid; and each particular Person being assessed according to his known Estate, either Real or Personal, for the Purpose aforesaid, shall pay the same to such Person or Persons as shall be appointed to collect and receive the same, by the said elected Inhabitants, or any Nine of them, and if any Person so assessed, shall refuse or neglect to pay said Assessment, the same shall and may be levied by Warrant of Distress from any One of His Majesty's Justices of the Peace of the Township, or County wherein such Person shall reside.

on Refusal or Neglect, the same to be levied by Warrant of Distress from one Justice.

Persons aggrieved may appeal to the next Sessions.

IV. Provided nevertheless, That if any Person shall think himself over rated, he may appeal for Redress to the next General Sessions of the Peace of the said County, and the Justices thereof are hereby required and empowered to examine, hear, and determine,

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termine all and every such Appeal or Complaint, and to give Redress as they in their Judgment shall think equitable, and such their Order and Judgment shall be final and bind all Parties.

V. *And be it Enacted*, That the Person or Persons appointed to collect the Assessments aforesaid, shall, once in Three Months, account with and pay into the Hands of the Overseers of the Poor of said Township, all such Sums of Money as he or they may have received, and upon his or their Neglect or Refusal to account and pay in the same as aforesaid, such Person or Persons shall and may be prosecuted by the Overseers of the Poor for the Time being, by Bill, Plaint, or Information, in any of His Majesty's Courts of Record within this Province.

Collectors to account with and pay to the Overseers of the Poor, once in Three Months, all Monies by him received,

on Refusal or Neglect he may be prosecuted in any Court of Record.

VI. *And be it also Enacted*, That the Overseers of the Poor of each Township respectively, shall dispose of the Monies voted and received for the Purpose before mentioned only, and they are hereby required and directed to render an Account thereof to their Successors, and to pay into their Hands any Surplus of Money, that may remain in their Hands not distributed.

Overseers of the Poor to apply the Monies to the Relief of the Poor, & pay any Surplus in their Hands, to their Successors.

VII. *And be it further Enacted*, That if any of the Twelve Inhabitants chosen at the annual Meeting as aforesaid, to make the Assessment aforesaid, or the Person or Persons appointed to collect the same, shall refuse to serve in their respective Offices, each Person so refusing shall forfeit and pay to the Overseers of the Poor, for the Use of the Poor of said Township, the Sum of Forty Shillings.

Persons refusing to serve as Assessor, or Collector, forfeit 40s.

C A P. VIII.

An ACT to explain and amend an Act, made and pass'd in the 32d Year of His late Majesty's Reign, intituled *An Act for making Lands and Tenements liable to the Payment of Debts.*

32. Geo. 2. c. 15.

***** *HEREAS* in the first Clause of an Act made and passed in the 32d Year of His late Majesty's Reign, intituled An Act for making Lands and Tenements liable to the Payment of Debts, It is among other Things Enacted, "That the Person or Persons in Possession of any Lands and Tenements on which the Provost Marshal or his Deputy shall extend the Execution of any Judgment on the Rents only, and shall cause the Person or Persons in Possession, whether Debtor or Debtors, or their Tenant or Tenants, to attorn and become Tenants to such Creditor or Creditors;" *And Whereas* many Doubts have arisen concerning such Deb-

Preamble

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Debtors refusing to attorn as Tenants to the Creditor, may be proceeded against according to the Act against forcible Entry or Detainer.

32. Geo. 2. c. 3.

tor or Debtors, or Persons in Possession, refusing to attorn and become Tenants, and neglecting or refusing to pay the Rents as the same become due; Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That every such Debtor or Debtors, or Persons in Possession of the Premises, on which Execution shall be extended, who shall refuse to attorn as Tenants to the Creditor or Creditors, at the Rent fixed by the Appraisers; or shall neglect or refuse to pay the Rent as it becomes due, then and in either of these Cases, the Person or Persons in Possession of the said Lands or Tenements, shall be deemed as guilty of a wrongful Detainer, and shall and may be prosecuted as is directed in and by an Act made and pass'd in the 32d Year of His late Majesty's Reign, intitled, *An Act directing the Proceedings against forcible Entry or Detainer*,

II. And Whereas in the second Clause of the before recited Act, it is among other Things Enacted, "That the Provost Marshal or his Deputy shall immediately deliver Seizin and Possession to such Creditor or Creditors, of all Lands and Tenements, the yearly Rents of which shall not be sufficient to satisfy the Debt, Cost, and Interest, together with the Charge of needful Repairs, and cause the Person or Persons in Possession or Improvement thereof to attorn and become Tenants to such Creditor or Creditors, and pay their Rent to him or them:" And Whereas this Part of the said Act has been found insufficient to answer the Purpose thereby intended; Be it therefore further Enacted, That in Case the Tenant or Tenants, or other Person in Possession or Improvement of all such Lands or Tenements, on which such Execution shall be levied, shall refuse to attorn and become Tenants to the Creditor or Creditors, at such Rents as the said Creditor or Creditors shall think reasonable, and pay the same as it becomes due, that then and in either of these Cases, the Person or Persons in Possession of the said Lands or Tenements shall be held and deemed wrongful Detainers of the Premises, and shall and may be prosecuted as is herein before directed.

Persons in Possession refusing to attorn as Tenants to the Creditor, to be proceeded against in like manner.

III. And be it Enacted, That the Attornment, shall be in the Form following.

Form of the Attornment.

" I. A. B. of
 " Tenant to C. D. of
 " Term of
 " per Annum; the said Rent to be paid Quarterly,
 " with Liberty for the said C. D. or his Attorney to enter into
 " said Premises and distrain for the said Rent, if in Arrear;
 " in Consideration of which Attornment I have paid the said
 " C. D. the Sum of One Shilling.
 " the Day of
 " Witness

do hereby attorn and become
 for for the
 at the yearly Rent of
 the said C. D. or his Attorney to enter into
 said Premises and distrain for the said Rent, if in Arrear;
 in Consideration of which Attornment I have paid the said
 C. D. the Sum of One Shilling.
 Witness my Hand at

C A P. IX.

An ACT in Addition to an Act, intituled *An Act for regulating and maintaining an House of Correction or Work House within the Town of Halifax, and for binding out poor Children*, made and passed in the Thirty Third Year of His late Majesty's Reign.

33. Geo. 2. c. 1.

WHEREAS several Inconveniencies have arisen from want of sufficient Directions being given in the Act, made and passed in the Thirty Third Year of His late Majesty's Reign, intituled "An Act for regulating and maintaining an House of Correction or Work House within the Town of Halifax, and for binding out poor Children," touching the regulating and governing the Work House, erected in the Town of Halifax; and other Matters intended to be provided for by the said Act; Be it Enacted by the Lieutenant Governor, Council, and Assembly, That from and after the Publication hereof, the ordering and governing the said House of Correction or Work House, shall be in the Justices of the Peace in their Quarter Sessions, (except three Rooms, which shall be reserved for the Reception of the Poor, under the Direction of the Overseers of the Poor) and the said Justices are hereby also empowered to agree with any Person to be Master or Keeper of the said House, (excepting the three Rooms before excepted) upon the best Terms they can, for such Time as they shall think advisable, publick Notice being first given in the *Halifax Gazette* for that Purpose; and such Master or Keeper shall account with the said Justices in Sessions, once in every Three Months, (if required) therein stating as well the Expences of attending the said House, as all the Earnings of the same.

Preamble.

The Workhouse to be under the Direction of the Justices in Quarter Sessions, (except three Rooms for the Reception of the Poor, which shall be under the Direction of the Overseers of the Poor) who shall agree with a Keeper of the said House, &c.

II. *And be it further Enacted*, That the said Justices shall nominate Three of their Bench Quarterly, to have the Inspection of the said Work House, One of which Justices in Rotation shall visit the same at least once every Week, to see that such Persons as shall be committed thereto, are kept diligently to Work; and to rectify any Abuses that may be found in the Management thereof.

Three of the said Justices to have the Inspection of the said House, one of whom shall visit the same once every Week.

III. *And Whereas*, by the said Act, sick and weak Persons unable to be taken Care of and relieved, which has been attended with great Expence for Remedy whereof, Be it Enacted, That it shall be in the

Sick and weak Persons to be sent to the Work House by the Overseers of the Poor only, to be there relieved.

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the Power of the Overseers of the Poor of the Town of *Halifax* only, to send such sick and weak Persons to the Work House, there to be relieved by their Direction, and the Expence thereof to be defrayed out of such Taxes, or Poor's Rate, as shall be granted and collected for the Town of *Halifax*.

The Clause relating to the binding out poor Children, to extend through the Province.

IV. *And Whereas the Clause in the said Act, relating to the binding out poor Children and Orphans, is confined to the Town of Halifax only, which if extended to the other Towns in the Province, might be attended with many good Effects, Be it therefore Enacted, That the said Clause in the before recited Act, relating to the binding out poor Children and Orphans, and all the Directions therein contained, shall for the future extend, and be construed to extend, to all the other Towns in this Province.*

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First Day of July, Anno Domini 1761*, in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Twenty Second Day of *March 1764*, in the Fourth Year of His said Majesty's Reign; being the Fifth Session of the Third GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An A C T for amending Defects in Pleas, Processes and Records.

*Eng Stat. 3. H. 6.
c. 12. Stat. 1. 2.*

No Judgment, &c. to be reversed for any Writ razed or interlined.

BE it Enacted by the Lieutenant Governor, Council, and Assembly, That for Error in any Record, Process or Warrant of Attorney, Original Writ or Judicial, Panel or Return, in any Places of the same razed or interlined, or in any Addition,

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dition, Substraction, or Diminution of Words, Letters, Syl-
la- or Titles found therein, no Judgment or Record shall be
reve l or annulled, but the Judges of the Courts before whom
such k cords and Process shall be depending, shall have Power to
examine such Records, Process, Words, Pleas, Warrants of At-
torney, Writs, Panels, or Return, by them and their Clerks, and
to reform and (a) amend, in Affirmance of the Judgments of such
Records and Processes, all that which to them in their Discretion
seemeth to be Misprision of their Clerks, in such Record, Pro-
cesses, Word, Plea; Warrant of Attorney, Writ, Panel and Re-
turn (a); except Appeals, Indictments of Treasons and Felonies,
and the Outlawries for the same, † and the Substance of the pro-
per Names, Surnames, and Additions left out in Original Writs,
and Writs of Exigent, and any other Writs containing Proclama-
tion.

The Judges may
amend all Defects
which are Misprision
of their Clerk,

Except Appeals,
&c.

† 1. Stat. Mir. C. L.
p. 95. L. 1. C.

II. *And be it further Enacted by the Authority aforesaid, That **
all Writs of Error, Appeals from Judgments in any Action, Real,
Personal, or Mixt, according to the Course of Proceedings in this
Province, wherein there shall be any Variance from the Original
Record, or other Defect, may and shall be amended and made
agreeable to such Record, by the Courts where such Writ or Writs
of Error, or such Appeals shall be returnable‡; and that where any
Verdict shall be given in any Action, Suit, Bill, Plaint or Demand,
in any of His Majesty's Courts of Record within this Province,
the Judgment thereupon shall not be stayed or reversed for any
Defect or Fault either in Form or Substance (b), in any Bill, Writ
Original or Judicial, or for any Variance in such Writs from the
Declaration or other Proceedings.

* Eng. Stat. 5. Geo.
1. c. 13.
Writs of Error va-
rying from the Re-
cord may be
amended.

‡ Eng. Stat. 18. Eliz.
c. 14. 16. & 17.
Car. 2. cap. 8.
1. Tem. 200.
5. Geo. 1. c. 13.
After Verdict no
Judgment shall be
stayed, &c. for any
Defect in any
Bill, &c.

III. *Provided nevertheless,* That nothing in this Act contained,
shall extend, or be construed to extend, to any Appeal of Felony

Not to extend to
Appeals of Felony,
&c.

(aa) By Common Law all Mistakes were amendable the same Term. 8. Co. 156. 157. a. b.

For Amendments in subsequent Terms in Mistakes of Letters and Syllables, vide Eng. Stat. 14.
Ed. 3. c. 6. 8. Co. 158. a.

The Eng. Stat. 8. Hen. 6. c. 12. (from which 'this First Section is transcribed)
gives Remedy for Amendment of Original Writs, Processes, &c. See the Exposition of
this Statute in *Arthur Blackmore's Case*, 8. Co. 156. a. The Process is as well amendable
after Judgment as before by 14. Ed. 3. c. 6. but the Power of amending Records, &c. is
only in Affirmance of the Judgment, &c. by 8. Hen. 6. c. 12.

(b) Whatever is essential to the Gift of the Action cannot be cured after Verdict,
5. Mod. 286. and what is Substance must be determined in every Act according to its
nature, and every Action must have all Essentials necessary to maintain Cro. Eliz. 778.

Want of Substance in the Count was not amendable, *Freeman's Case*, 5. Co. 45.

Where by Record it appears that Plt. had no Cause of Action, it is not cured by Verdict
for Plt. 3. Co. 52. b.

or

or Murder, or to any Process upon any Indictment, Presentment, or Information, of or for any Offence or Misdemeanor whatsoever(c).

(c) 1. *Rec. Abr. C. L.* p. 96. *Lit. C. Eng Stat.* 4. *An. c.* 16. § 9. *Ann. c.* 20. *Sec.* 7.

C A P. II.

An A C T for preventing Abatement and Discontinuance of Suits.

Eng. Stat. 8. & 9.
Will. 3. c. 11.
Sec. 6.

1. *Salk.* 352.

Plaintiff or Defendant dying before final Judgment, Action not to abate.

***** *E it Enacted by the Lieutenant Governor, Council, and Assembly,* That in all Actions to be commenced in any Court of Record, from and after the *First Day of June* next ensuing, if any Plaintiff happen to die after an interlocutory Judgment and before a final Judgment obtained therein, the said Action shall not abate by Reason thereof, if such Action might be originally prosecuted, or maintained by the Executors or Administrators of such Plaintiff; and if the Defendant die after such interlocutory Judgment and before final Judgment therein obtained, the said Action shall not abate, if such Action might be originally prosecuted, or maintained against the Executors or Administrators of such Defendant; and such Court is hereby impowered to try the said Action, and to determine and give Judgment thereon, in the same Manner as if the said Suit had been commenced by, or against such Executors or Administrators, as in Right of their Testators or Intestates †.

Eng. Stat. 8. & 9.
Will. 3. c. 11.
Sec. 7.
Action may proceed notwithstanding the Death of one of the Parties.

II. *And be it further Enacted by the Authority aforesaid,* That if there be two or more Plaintiffs or Defendants, and one or more of them should die, if the Cause of such Action shall survive, the surviving Plaintiff or Plaintiffs, or against the surviving Defendant or Defendants, the Writ or Action shall not be thereby abated; but such Death being suggested upon the Record, the Action shall proceed at the Suit of the surviving Plaintiff or Plaintiffs, against the surviving Defendant or Defendants.

† By the *Eng. Stat.* 8. & 9. *Will.* 3. c. 11. *Sec.* 6. Plaintiff must proceed by *Scire facias* & *Writ of Enquiry*. This Clause of the Act respects only the Death of Parties between an interlocutory and final Judgment, which was an Abatement at Common Law. In what Cases Death of Parties shall abate the Writ or not at Common Law, vide *Cro. El.* 652. *Co. Lit.* 139. *Cro. Car.* 426. 3. *Mod.* 249. 2. *Sira.* 1063. Where the Plea remains in the same Condition as if the Party deceased had been living, there, it is a general Rule, that the Death of such Party makes no Alteration or Abatement of the Writ.

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III. *And be it further Enacted*, That in all Actions Personal and Real, or Mixt, the Death of either Party between the Verdict and the Judgment shall not hereafter be alledged for Error, so as such Judgment be entered within two Terms after such Verdict*.

Eng. Stat. 17. Car. 2. c. 8. Sect. 1.
Death of either Party between Verdict and Judgment.

IV. *And be it further Enacted, by the Authority aforesaid*, That where any Judgment after a Verdict shall be had, by or in the Name of any Executor or Administrator, in such Case an Administrator *de bonis non* may sue forth a *Scire facias*, and take Execution upon such Judgment:

Eng. Stat. 17. Car. 2. c. 8. Sect. 2.
Judgment obtained by an Executor.

V. *And be it further Enacted*, That no Process or Suit before any Justices of Assize, Gaol Delivery, Oyer and Terminer, Justices of Peace or other Commissioners, shall be discontinued by the making and publishing of any new Commission or Association, or by altering the Names of the Justices of Assize, Gaol Delivery, Oyer and Terminer, Justices of Peace or other Commissioners, but such new Justices of Assize, Gaol Delivery, and of the Peace and other Commissioners, may proceed as if the former Commissions, Justices or Commissioners, had remained and continued without Alteration.

Eng. Stat. 1. Ed. 6. c. 7. Sect. 6.
No Suit before Justices shall be discontinued by a new Commission.

* 1. Salk. 8. & 9. 1. Sid. 325.

C A P. II.

An A C T to empower the Province Treasurer to borrow a Sum not exceeding the Sum of *Two Thousand Nine Hundred Pounds*, for paying off Bounties, Premiums, and other Debts, payable by the Laws of this Province.

***** *HEREAS* the Act made and passed in the present Year of Preamble:
***** *W* His Majesty's Reign†, intituled "An Act to empower the Pro-
***** "vince Treasurer to borrow a Sum not exceeding the Sum of † 3. Geo. 3. c. 4
" Four Thousand Pounds, for paying off Bounties, and Pre-
miums, and other Debts payable by the Laws of this Province," has been found insufficient to answer fully the Purposes thereby intended, as by a Report from the Treasurer, it appears that there are Debts to a considerable Amount which remain yet unsatisfied, and therefore not upon a Footing as to Interest with the other Creditors of the Province;
Be it therefore Enacted, by the Lieutenant Governor, Council, and Assembly, That the Treasurer of the Province, be and is hereby empowered and directed to borrow from such Person or Persons as shall be willing to lend the same, a Sum not exceeding Two Thousand Nine Hundred Pounds; and the Sum so borrowed shall be applied in Manner as in this Act is hereafter directed, and for

The Province Treasurer to borrow £2900. and give his Receipt for the same.

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any Sum or Sums so borrowed, the Treasurer aforesaid shall give his Receipt or Obligation in the Form following,

PROVINCE Nova Scotia, the

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Day of

Form of the Receipt.

" **R**ECEIVED of the Sum of for the Use
 " and Service of the Province of Nova Scotia, and in Behalf of
 " said Province, I do hereby promise and oblige myself, and Successors
 " in the Office of Treasurer, to repay the said or order
 " the Day of the aforesaid Sum of
 " with Interest at the Rate of Six Pounds per Centum per Annum.
 " Witness my Hand

Such Receipts to bear Interest at the Rate of 6 per Cent.

II. And be it further Enacted, That all Receipts so issued by the Treasurer of the Province, shall according to the Tenor thereof, bear an Interest at the Rate of Six Pounds per Centum per Annum, and so in Proportion for a greater or a lesser Sum: And the Treasurer is hereby directed to give his Receipt or Receipts for any Sum or Sums (provided the same be not less than Twenty Shillings) at the Option of the Lender, or Person intitled to the same.

Disposition of Money borrowed.

III. And be it also further Enacted, That the Sum so borrowed shall be applied to the Payment and Discharge of the Bounty Certificates and Premiums, and of all other Debts which are or shall become due and payable by the Laws of this Province, and the Expenses of the Council, and House of Assembly, which pass by Votes of the respective Houses. Provided, That the Accounts and Vouchers of all such separate Debts, shall be first regularly audited, and certified to be justly due.

Accounts to be audited.

Bounty Bills, &c. to be received as Cash by the Treasurer.

IV. Provided also, That if the Province Treasurer should (by a Scarcity of Money) not be able to borrow the Sum intended by this Act, that then and in such Case, any Person or Persons who shall present Bounty Bills, or Accounts of Money due, or Votes as aforesaid, said Bounty Bills, Accounts or Votes, may be received by the Treasurer, who is hereby directed to give his Receipt or Receipts for the said Sum or Sums, bearing Interest in Manner herein directed.

Interest to be paid annually till the Principal shall be discharged.

V. And provided always and be it further Enacted, That if there should not be Money sufficient in the Treasury, to discharge the several Receipts so issued when the same become payable, that then in such Case the Treasurer is hereby authorized and directed to pay off the Interest, as the same becomes annually due, out of such Monies as may then be in his Hands, arising from the Duties of Impost and Excise.

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VI. And Whereas the Act, intituled "An Act to empower the Province Treasurer to borrow a Sum not exceeding the Sum of Four Thousand Pounds, for paying off Bounties, Premiums, and other Debts, payable by the Laws of this Province," has been found insufficient to discharge the whole of the Bounties, and Premiums, and other Debts that were to have been discharged with the Money borrow'd by the said Act, as sundry of the said Bounty, and Premium Certificates, and other Debts are still outstanding: And Whereas it is reasonable that such Certificates or other Debts should bear Interest as they could not then be paid; Be it therefore Enacted, That the Treasurer aforesaid, shall state and allow Interest for all such outstanding Debts, in Manner as prescribed by the said Act.

Outstanding Debts
to bear Interest.

VII. And be it further Enacted, That all Monies which may be collected by Virtue of the several Laws of this Province, and which are appropriated for the Payment of Bounties, Premiums, and other Accounts of Money due as aforesaid, over and above what will pay the Interest of Money borrow'd by the Government, shall (after discharging the former Loan Creditors) be applied for paying off the Receipts, given by the Treasurer for Monies borrowed, or Bounty and Premium Certificates received in by Virtue of this or the afore recited Act.

Monies collected for
Duties, how to be
applied.

At the GENERAL ASSEMBLY of the Province of Nova Scotia, begun and holden at Halifax, on the First Day of July, Anno Domini 1761, in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of Great Britain, France, and Ireland, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Twelfth Day of October 1764, in the Fourth Year of His said Majesty's Reign; being the Sixth Session of the Third GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An A C T for Reformation of Jeofails and Mispleadings, and to prevent Arrests and Reversals of Judgments, and for the better Advancement of Justice.

Eng. Stat. 32. Hen. 8. c. 30. Sect. 1.
After an Issue tried there shall be Judgment given notwithstanding any Mispleading, &c.

*** E it Enacted by the Governor, Council, and Assembly, That
*** B if any Issue be tried by the Oath of Twelve or more indifferent Men for the Party Plaintiff or Demandant, or for the Party Tenant or Demandant, in any Courts of Record, the Justice or Justices, by whom Judgment thereof ought to be given, shall proceed and give Judgment in the same, any Mispleading, want of Colour, insufficient Pleading, or Jeofail, any Miscontinuance or Discontinuance or Misconveying or Process, misjoining of the Issue, want of Warrant of Attorney for the Party, against whom the same Issue shall happen to be tried, or any other Default or Negligence of any of the Parties, their Counsellors or Attornies, had or made to the contrary notwithstanding; and the said Judgment shall stand according to the said Verdict, without Reversal by Writ of Error or false Judgment (a); Provided, that in avoiding of Errors through the Negligence of Attornies, every Person named as Attorney in Actions and Suits pleaded to Issue, shall from Time to Time deliver, or cause to be delivered his or their sufficient and lawful Warrant of Attorney, to be entered of Record, for every of the said Actions or Suits wherein they be named Attornies, to the Clerk of the Court; That is to say, The Attorney for the Plaintiff or Demandant, shall file his Warrant of Attorney as aforesaid, the same Term he declares, and the Attorney for the Defendant or Tenant, shall file his Warrant the same Term he appears; upon Pain of forfeiting unto our Sovereign Lord the KING, the Sum of Five Pounds, for not delivering the said Warrant of Attorney; to be recovered by Action of Debt, Bill, Plaint or Information.

Eng. Stat. 18. Eliz. c. 14. Sect. 1.
After Verdict, Judgment shall not be stayed &c. for want of Form &c.

II. And be it further Enacted, That after Verdict as aforesaid, the Judgment thereupon shall not be stayed or reversed, for any Defect in Form in any Writ Original or Judicial, Count, Declaration, Bill, Plaint, Suit, or Demand, or any Variance in Form only between the Original or Bill, and the Declaration or Plaint, or for want of any Writ Original or Judicial, or for any imperfect or insufficient Return of any Sheriff or other Officer (b).

(a) Vide 1. *Danvers's Abridge*. 352. A Collection of Authorities transcribed into 1. *Bac. Abr. C. L. 91*. Settling what Issues, Pleas, &c. are aided or not by this *Eng. Stat. 32. Hen. 8. c. 30*. The only Omission remedied by this *Eng. Stat.* is the Party's Neglect in not filing the Warrant of Attorney.

(b) This *Eng. Stat. 18. Eliz. c. 4*. remedies the Omissions of the prevailing as well as the other Party. Vide 1. *Bac. Ab. C. L. 92*. Construction and Authorities as to Form and Substance of Writs, Declarations, Returns, &c. and how far aided or not by this Statute.

Misprisions not amended by *Eng. Stat. 18. Eliz. c. 14. Sect. 1*. nor by *32. Hen. 8. c. 30*. vide *Arthur Blackmore's Case*, 8. Co. 156. b. to 163. a. Where by Record it appears Plaintiff had no Cause of Action, not amendable tho' Verdict pass for him, 3. Co. 52. b.

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thereupon of any alive, any infant Part (e) ought naming Writs of that was turn upon ro.s be riffs or c the Return was returned in any E Infant un torney th

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stayed or Pledge to the Name for want of not alledge or other I for want of mentary, and Arms, or Surname Sum or Sum any Bill, name, Sum Record pr Mistake is whereunto for Cause, for This be is

(c) 1. *Sid. 61*

(d) *Cro. Car.*

(e) This Stat. where the Venue 2. *Lev. 122. &c* Process, according

(f) This exten

(g) *Sty's*, 158.

III. *And be it further Enacted*, That after Verdict, Judgment thereupon shall not be stayed or reversed for want of an Averment of any Life or Lives (c), so as the said Person be proved to be alive, or for awarding the *Venire facias* to a wrong Officer, upon any insufficient Suggestion; or because the Visne (d) is in some Part (e) misawarded or sued out of more or fewer Places than it ought to be, so as some one Place be right named, or for misnaming any of the Jurors in Summons (f) or Addition in any of the Writs or Returns thereof, so as it be proved to be the same Man that was meant to be returned, or by Reason that there is no Return upon any of the said Writs; so as a Panel of the Names of Jurors be returned and annexed to the said Writ; or for that the Sheriffs or other Officers Name, having the Return thereof, is not set to the Return of any such Writ, so as it be proved that the said Writ was returned by such Officer, or by reason (g) that the Plaintiff in any *Ejectione firmæ*, or in any Personal Action or Suit, being an Infant under the Age of One and Twenty Years, did appear by Attorney therein, and the Verdict passed for him.

Eng. Stat. 2. Jac. 1. c. 13. Sect. 2. Divers Jeofails in Suits of Law prevented and reformed.

IV. *And be it further Enacted*; That Judgment shall not be stayed or reversed after Verdict, for want of Pledges, or but one Pledge to prosecute, returned upon the Original Writ, or because the Name of the Sheriff is not returned on the Original Writ, or for want of entering Pledges upon any Bill or Declaration, or for not alledging the bringing into Court any Bond, Bill, Indenture, or other Deed mentioned in the Declaration or other Pleading; or for want of Allegation of bringing into Court any Letters Testamentary, or Letters of Administration, or for Omission of, by Force and Arms, and against the Peace, or for mistaking the Christian Name or Surname of the Plaintiff or Defendant, Demandant or Tenant, Sum or Sums of Money, Day, Month or Year, by the Clerk in any Bill, Declaration or Pleading, where the right Name, Surname, Sum, Day, Month or Year, in any Writ, Plaint, Roll or Record preceding, or in the same Roll or Record, where the Mistake is committed, is or are once truly and rightly alledged, whereunto the Plaintiff might have demurred, and shewn the same for Cause, nor for want of Averment of *This he is ready to verify*, or for *This he is ready to verify by Record*, or for not alledging as it appears by

Eng. Stat. 16. Edw. 1. Car. 2. c. 8. Sect. 1.

This Act supplies several Defects in 21. Jac. 1. c. 13. and adjudges many Points of Form which were before construed to be Substance, and not aided by the former Statutes. In what Cases Judgment, after Verdict, shall not be stayed for want of Form in Pleadings.

(c) 1. Sid. 61.

(d) Cro. Car. 17. 162. 284. 480.

(e) This Stat. was framed to help Mistakes in Jury Process, but Remedy is given only where the Venue arises from several Places, and one of the Places is truly named. 1. Sid. 30. 2. Lev. 122. & 2. Saund. 258. By this Stat. no Proceedings were aided but those in Jury Process, according to the Course of the Common Law.

(f) This extends not to any Mistake in the Christian Name. Cro. Car. 202.

(g) Sty's, 158. 218.

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Record,

Record, or for that there is no right Venue, so as the Cause were tried by a Jury of the proper (*h*) County or (*i*) Place, where the (*k*) Action is laid, nor for that the Increase of Costs after a Verdict in an Action, or upon a Non Suit in Replevin, are not entered to be at the Request of the Party for whom the Judgment is given, nor by Reason that the Costs in any Judgment whatsoever, are not entered to be by Consent of the Plaintiff, but that all such Omissions, Variances, Defects and all other (*l*) Matters of like Nature, not being against the Right of the Matter of the Suit, nor whereby the Issue or Trial are altered, shall be amended by the Justices or other Judges of the Courts where such Judgments are or shall be given, or whereunto the Record is or shall be removed by Writ of Error, or by Appeal in any Action, Real, Personal or Mixt, according to the Usage and Course of Proceedings in this Province.

Eng. Stat. 4. § 5.
Ann. c. 16. Sect. 1.
Said to have been
penned by the Lord
Somers.

Judges shall give
Judgment on De-
murrer &c. without
regarding any De-
fect in Writ &c.

Vide Eng. Stat.
27. Eliz. c. 5. Sect. 1.

V. And be it further Enacted, That where any Demurrer shall be joined, and entered in any Action or Suit in any Court of Record within this Province, the Judges shall proceed and give Judgment, according as the very Right of the Cause and Matter in Law shall appear unto them, without regarding any Imperfection, Omission or Defect in any Writ, Return, Complaint, Declaration, or other Pleading, Process or Course of Proceeding whatsoever, except those only which the Party demurring shall specially and particularly set down and express together with his Demurrer as Causes of the same, although such Imperfection, Omission or Defect be Matter of Substance, so as sufficient Matter appear in the said Pleadings, upon which the Court may give Judgment, according to the very Right of the Cause, and therefore no Advantage or Exception shall be taken of, or for an immaterial Traverse, or of or for the Default of entering Pledges upon any Bill or Declaration, or of or for the Default of alledging the bringing into Court any Bond, Bill, Indenture or other Deed whatsoever mentioned in the Declaration or other Pleading, or of or for the Default of alledging the bringing into Court Letters Testamentary or Letters of Administration, or of or for the Omission of *by Force and Arms, and against the Peace*, or either of them; or of or for the want of Averment of *This he is ready to verify*, or of *This he is ready to verify by Record*, or of or for not alledging *as it appears by the Record*, (but the Court shall give Judgment according to the very

(*h*) This gives no Aid where the Trial is in an improper County. 1. Mod. 37. 199.
2. Mod. 24. 1. Str. 313. 2. Str. 1011.

(*i*) 1. Lev. 207. per *Twissden*, who termed this Act an Omnipotent Act. This Statute being a new Law, shall not be construed according to the Intent against the Words.

(*k*) 1. Saund. 247. 248. 1. Vent. 263. 2. Lev. 121. The Stat. did not intend to alter the whole Course of Trials and to try Things in foreign Counties, and must mean that the Issue shall be tried in the proper County where it arises, else it would be impossible by any Means to remove the Trial from the County where the Action is laid. Raym. 181.

(*l*) 1. Vent. 272.

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Right

Right of the Cause as aforesaid, without regarding any such Imperfections, Omissions and Defects, of any other Matter of the like Nature, except the same shall be specially and particularly set down and shewn for Cause of Demurrer.)

Exception.

VI. *And be it further Enacted*, That no Judgment entered upon Confession, *Nihil dicit*, or *Non sum informatus*, in any Court of Record, shall be reversed, nor any Judgment upon any Writ of Inquiry of Damages executed thereon, be said or reversed for or by Reason of any Imperfection, Omission, Defect, Matter or Thing whatsoever, which by force of this Act would have been aided and cured as *jeofails*, in case a Verdict of Twelve Men had been given in the said Action or Suit, so as there be an Original Writ or Bill, and Warrants of Attorney duly filed as by this Act is directed.

Eng. St. t. 4. & 5.
Ann. c. 16. Sect. 2.
Judgment entered
upon Confession, &c.
not to be reversed
for any Imperfec-
tion &c.

VII. *And be it further Enacted*, That this Act shall extend in all *jeofails* as aforesaid to all Suits in any Court of Record, for Recovery of any Debt immediately owing, or any Revenue belonging to His Majesty, His Heirs or Successors.

Eng. St. t. 4. & 5.
Ann. c. 16. Sect. 24.
Act to extend to all
Suits for the King's
Debt, &c.

VIII. *Provided always, and be it Enacted by the Authority aforesaid, (m)* That nothing in this Act before contained, shall extend to any Writ, Declaration or Suit of Appeal of Felony or Murder, or to any Indictment or Presentment of Treason, Felony, or Murder, or other Matter, or to any Process upon any of them; or to any Writ, Bill, Action or Information upon any Penal Statute.

Eng. St. t. 18. Eliz.
c. 14. Sect. 2.
21. Jac. 1. c. 13.
Sect. 3.
16. & 17. Car. 2.
c. 8. Sect. 2.
4. & 5. Ann. c. 16.
Sect. 7.
To what this Act
shall not extend.

IX. *And be it further Enacted*, That no Dilatory Plea shall be received in any Court of Record, unless the Party offering such Plea do, by Affidavit, prove the Truth thereof, or shew some probable Matter to the Court to induce them to believe that the Fact of such Dilatory Plea is true (n).

Eng. St. t. 4. & 5.
Ann. c. 16. Sect. 11.
No Dilatory Plea to
be received unless
on Affidavit.

(m) Adjudged, that this Exception doth not extend to Cases in which a Remedy is given by way of Recompence to a Party.—No Indictment can be amended where an Amendment is not allowable by Common Law, since the Statutes of Amendment do not extend to Criminal Prosecutions. 2. Hawk. P. C. 244.

(n) Pleas in Abatement, and Foreign Pleas ousting the Jurisdiction of Courts, respect not the Merits of the Cause, and being merely dilatory, were restrained at Common Law, &c. and further by this Statute, requiring an Oath and shewing a probable Cause of the Delay to the Court, and this must be before Imparance, as in 1. Vent. 180.

C A P. II.

An ACT in further Addition to an Act, made and passed in the Thirty Third Year of His late Majesty's Reign, intituled *An Act for regulating Petit Juries, and declaring the Qualification of Jurors.*

33. Geo. 2. c. 5.

Preamble.

WHEREAS the Act made and passed in the Thirty Third Year of His late Majesty's Reign, intituled "An Act for regulating Petit Juries, and declaring the Qualification of Jurors," And also an Act in Addition to the said Act, are confined to the County of Halifax only; and as it is expedient and necessary, that the same should be extended to all the other Counties within this Province; Be it therefore Enacted by the Governor, Council, and Assembly, That the several Clauses, Matters and Things Specified in the Act made and passed in the Thirty Third Year of His late Majesty's Reign, intituled "An Act for regulating Petit Juries, and declaring the Qualification of Jurors;" and also in An Act made and passed in the same Year, intituled "An Act in Addition to an Act, intituled *An Act for regulating Petit Juries, and declaring the Qualification of Jurors,*" and all the Directions therein contained, shall for the future extend, and be construed to extend to all the other Counties in this Province.

33. Geo. 2. c. 9.
2. Sess.

Former Acts extended throughout the Province.

C A P. III.

An Act to empower the Province Treasurer to issue small Notes for discharging the Loans made in Virtue of an Act made and passed in the First Year of His Majesty's Reign, intituled *An Act for the Relief of the Poor of the Town of Halifax, and indigent Persons in the New Settlements*; and of an Act made and passed in the Second Year of His Majesty's Reign, intituled *An Act to enable the Governor, Lieutenant Governor, or Commander in Chief, to borrow the Sum of Four Thousand Five Hundred Pounds for paying off the publick Debts, and to Postpone the Payment of Bounties and Premiums.*

1. Geo. 3. c. 9.

2. Geo. 3. c. 2.

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***** HEREAS it has been represented, that the Persons who now
 ***** possess Warrants for the several Sums of Money borrowed in
 ***** Virtue of an Act, made and passed in the First Year of His
 " Majesty's Reign, intituled " An Act for the Relief of the
 " Poor of the Town of Halifax, and indigent Persons in the new Settle-
 " ments;" and of an Act made and passed in the Second Year of His
 Majesty's Reign, intituled " An Act to enable the Governor, Lieute-
 " nant Governor, or Commander in Chief, to borrow the Sum of
 " Four Thousand Five Hundred Pounds for paying off the public Debts; and
 " to postpone the Payment of Bounties and Premiums," labour under great
 Inconveniencies, on Account of the Largeness of the Sums expressed in those
 Warrants: For remedy whereof, Be it Enacted by the Governor, Coun-
 cil and Assembly, That the Treasurer of the Province be, and he is
 hereby impowered and directed to take up, and receive all such
 Warrants for Money borrowed as aforesaid, and in lieu thereof
 to give Receipts in Manner as is prescribed by an Act made and
 passed in the Fourth Year of His Majesty's Reign, intituled *An*
Act to impower the Province Treasurer to borrow a Sum not exceeding
the Sum of Two Thousand Nine Hundred Pounds for paying off Bounties,
Premiums; and other Debts payable by the Laws of this Province.

Preamble.

Province Treasurer
 to take up War-
 rants, and in lieu
 thereof to give Re-
 cepts in manner di-
 rected by *Prov. Act*
 4. Geo. 3. c. 3

II. And be it further Enacted, That all Receipts so issued by the
 Treasurer of the Province, shall, according to the Tenor thereof,
 bear an Interest at the Rate of Six Pounds *per Centum per Annum*,
 and so in Proportion for a greater or lesser Sum, and the Treasurer
 is hereby directed to give his Receipt or Receipts for any Sum or
 Sums, provided the same be not less than Twenty Shillings, at
 the Option of the Person or Persons possessed of the Warrants
 herein mentioned, and to date those Receipts so given, on the Day
 following the Day to which the Interest due on such Warrants
 was paid.

Such Receipts to
 bear Interest at the
 Rate of 6 per Cent.

III. And be it Enacted, That all Warrants brought into the
 Treasury as aforesaid, and for which Receipts shall be given in
 Pursuance of this Act, shall be cancelled by such Commissioners
 as shall be appointed by the General Assembly.

Warrants to be can-
 celled by Commis-
 sioners to be ap-
 pointed.

IV. Provided always and be it Enacted, That all Receipts to be
 issued by the Treasurer in Pursuance of this Act, shall be entered
 with the Clerk of the Audits, before they are issued from the
 Treasury.

Receipts to be en-
 tered with the Clerk
 of the Audits.

V. And be it also Enacted, That all Receipts already issued
 by the Treasurer in Pursuance of the former Loan Acts, shall
 be entered with the Clerk of the Audits, before any further Inter-
 est is paid thereon.

Receipts already is-
 sued to be entered
 with the Clerk of
 the Audits.

C A P. IV.

3. Geo. 3. c. 3.

An A C T to repeal Part of an A&t made and passed in the Third Year of His Majesty's Reign, intituled *An A&t to prevent Frauds in the selling of Beef, Pork, Flour, and Biscuit or Ship Bread in Casks.*

Preamble.

***** HEREAS several Inconveniencies and Difficulties have arisen, in carrying into Execution the first Clause of an A&t made and passed in the Third Year of His Majesty's Reign, intituled "An A&t to prevent Frauds in the selling of Beef, Pork, Flour, and Biscuit or Ship Bread in Casks," whereby it is Enacted, "That all Casks of Beef and Pork, which shall be sold, exposed to Sale, or bartered, or bargained for, in any Way or Manner whatsoever, within this Province, shall contain, if the Produce of America, not less than Two Hundred and Twelve Pounds of neat Meat, and if from Ireland, Two Hundred Pounds of neat Meat;" Be it therefore Enacted by the Governor, Council, and Assembly, That from and after the Publication hereof, the said First Clause in the said A&t, intituled *An A&t to prevent Frauds in the selling of Beef, Pork, Flour, and Biscuit or Ship Bread in Casks*, and every Part thereof, be and the same is hereby repealed.

Repeal of the first Clause of the A&t recited.

This A&t not to be in force till His Majesty's Pleasure be known.
Confirm'd in 1766 by His Majesty in Council.

II. *Provided always*, That nothing herein contained, shall have any Force or Effect, until His Majesty's Pleasure herein shall be known.

C A P. V.

32. Geo. 3. c. 21.

An A C T in further Addition to, and Amendment of an A&t, intituled *An A&t relating to the Assize of Bread, and for ascertaining the Standard of Weights and Measures*, made and passed in the Thirty Second Year of His late Majesty's Reign.

Preamble.

***** HEREAS by the A&t made and passed in the Thirty Second Year of His late Majesty's Reign, intituled "An A&t relating to the Assize of Bread, and for ascertaining the Standard of Weights and Measures," no Person or Persons are properly empowered to inspect into the Assize of Bread, and prosecute Offenders against the said Act, except the Clerks of the Market; Be it therefore Enacted by the Governor, Council, and Assembly, That on Complaint being made to any One of His Majesty's Justices of the Peace,

Peace, by the Weigh A&t, and His Majesty's Justices of the Peace, contributed in the offending lings for tress, and to Gaol for the afore said, declared t

An A C T to herrover Hundred by man vince, passed titled grant to be li

***** H IV ***** H the su je appropriated for the same in insufficient to Roads into t by the Gover Province be from such a Sum not a Sum so born after directed surer afore said and Manne Fourth Year the Province

Peace, by any Person or Persons of any Bread being deficient in the Weight, as required and directed in and by the afore recited Act, and upon Proof thereof, or upon the View of any One of His Majesty's Justices of the Peace, it shall and may be lawful for such Justice to order all such Bread, as shall be found deficient in the Weight as aforesaid, to be seized and to be applied and distributed in Manner as by the aforesaid Act is prescribed, and the Person offending herein shall also forfeit and pay the Sum of Twenty Shillings for each and every Offence; to be levied by Warrant of Distress, and for want of sufficient Distress the Offender to be committed to Gaol for a Time not exceeding Ten Days, or until he pay the Fine aforesaid, which Fine shall be applied in the same Manner as the Bread, declared to be forfeited by the said Act, is directed to be applied.

All Bread deficient in Weight to be forfeited, by Order of any one Justice, and distributed as directed by *Prov. Act 32. Geo. 2. c. 31.*

Persons offending forfeit 20s. to be applied in like manner.

C A P. VI.

An A C T to empower the Province Treasurer to borrow a Sum not exceeding the Sum of Fifteen Hundred Pounds, for paying off the Debt incurred by making Roads into the interior Parts of this Province, and for further prolonging an Act made and passed in the Third Year of His Majesty's Reign, intituled *An Act for suppressing unlicensed Houses, and granting to His Majesty a Duty on Persons hereafter to be licensed.*

***** HEREAS the Duties arising from an Act made and passed in the Third Year of His Majesty's Reign, intituled An Act for suppressing unlicensed Houses, and granting to His Majesty a Duty on Persons hereafter to be licensed, were appropriated for the making Highways, Roads and Bridges, and keeping the same in Repair: And Whereas the aforesaid Fund has been found insufficient to answer the present Demand, for making and repairing Roads into the interior Parts of the Province; Be it therefore Enacted by the Governor, Council, and Assembly, That the Treasurer of the Province be, and he is hereby empowered and directed to borrow, from such Person or Persons as shall be willing to lend the same, a Sum not exceeding the Sum of Fifteen Hundred Pounds, and the Sum so borrowed shall be applied in Manner as in this Act is hereafter directed, and for any Sum or Sums so borrowed, the Treasurer aforesaid shall give his Receipt or Obligation in the Form and Manner as is prescribed by an Act made and passed in the Fourth Year of His Majesty's Reign, intituled *An Act to empower the Province Treasurer to borrow a Sum not exceeding the Sum of Two Thousand*

Preamble.

The Treasurer to borrow £1500.

And to give his Receipts for the same.

Thousand Nine Hundred Pounds, for paying off Bounties, Premiums, and other Debts, payable by the Laws of this Province.

Such Receipts to
bear Interest at 6.
per Cent.

II. *And be it further Enacted*, That all Receipts so issued by the Treasurer of the Province, shall, according to the Tenor thereof, bear an Interest at the Rate of Six Pounds *per Centum per Annum*, and so in Proportion for a greater or lesser Sum, and the Treasurer is hereby directed to give his Receipt or Receipts for any Sum or Sums, *provided* the same be not less than Twenty Shillings, at the Option of the Lender or Person intitled to the same.

Application of the
Money borrowed.

III. *And be it also further Enacted*, That the Sum so borrowed shall be applied to the Payment and Discharge of the Debts, incurred in making Highways, Roads and Bridges into the interior Parts of the Province.

Treasurer may re-
ceive the Governor's
Warrants as Cash.

IV. *Provided also*, That if the Province Treasurer should (by a Scarcity of Money,) not be able to borrow the Sum intended by this Act, that then and in such Case, any Person or Persons who shall produce any Orders or Warrants from the Governor, for the Payment of the Debts incurred as aforesaid, such Orders or Warrants shall be received by the Treasurer, who is hereby directed to give his Receipt or Receipts, for the Sum or Sums therein specified, bearing Interest in Manner herein directed.

Interest to be paid
Annually until the
Principal is dis-
charged.

V. *And provided always, and be it further Enacted*, That if there should not be Money sufficient in the Treasury to discharge the several Receipts so issued, when the same become payable, that then and in such Case, the Treasurer is hereby authorized and directed to pay off the Interest as the same becomes annually due, out of such Monies as may then be in his Hands, arising from the Duties aforesaid.

Receipts to be en-
tered with the Clerk
of the Audits.

VI. *Provided also, and be it Enacted*, That all Receipts to be issued by the Treasurer in Pursuance of this Act, shall be entered with the Clerk of the Audits, before they are issued from the Treasury.

Act for Suppressing
unlicensed Houses,
&c. continued.

VII. *And be it Enacted*, That for the better securing the Payment of the Principal and Interest of the Money so borrowed as aforesaid, that the Act, intitled *An Act for suppressing unlicensed Houses, and granting to His Majesty a Duty on Persons hereafter to be licensed*, and every Clause, Article and Matter therein contained, be and continue in full Force and Effect for the Term of Two Years, from and after the Expiration of the Time limited by the said Act, and until the End of the Session of the General Assembly then next following.

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C A P. VII.

An ACT to empower the Province Treasurer to borrow a Sum not exceeding the Sum of Two Thousand Five Hundred Pounds, for paying off Bounties, Premiums, and other Debts, payable by the Laws of this Province.

WHEREAS there are sundry Bounty Certificates, Premiums, and other Debts, payable by the Laws of this Province, still remaining unpaid; Be it therefore Enacted by the Governor, Council, and Assembly, That the Treasurer of the Province be, and he is hereby empowered and directed to borrow, from such Person or Persons as shall be willing to lend the same, a Sum not exceeding the Sum of Two Thousand Five Hundred Pounds, and the Sum so borrowed shall be applied in Manner as in this Act is hereafter directed; and for any Sum or Sums so borrowed, the Treasurer aforesaid shall give his Receipt or Obligation in the Form prescribed by an Act, intituled *An Act to empower the Province Treasurer to borrow a Sum not exceeding the Sum of Two Thousand Nine Hundred Pounds, for paying off Bounties and Premiums, and other Debts payable by the Laws of this Province.*

Preamble.

The Treasurer to borrow £2,500.

and give his Receipts for the same.

4. Geo. 3. c. 3.
1. Sess.

II. *And be it further Enacted*, That all Receipts so issued by the Treasurer of the Province shall, according to the Tenor thereof, bear an Interest at the Rate of Six Pounds *per Centum per Annum*, and so in Proportion for a greater or lesser Sum, and the Treasurer is hereby directed to give his Receipt or Receipts for any Sum or Sums, *provided* the same be not less than Ten Shillings, at the Option of the Lender or Person intituled to the same.

Such Receipts to bear Interest at the Rate of 6 per Cent.

III. *And be it also further Enacted*, That the Sum so borrowed shall be applied to the Payment and Discharge of the Bounty Certificates and Premiums, and of such other Debts which are or shall become due, and payable by the Laws of this Province, and the Expences of the Council and House of Assembly, which pass by Votes of the respective Houses. *Provided*, That the Accounts and Vouchers of all such separate Debts shall be first regularly audited and certified to be justly due.

Application of the Money borrowed.

IV. *Provided also*, That if the Province Treasurer should (by a Scarcity of Money) not be able to borrow the Sum intended by this Act, that then and in such Case, any Person or Persons who shall present Bounty Bills or Accounts of Money due, or Votes as aforesaid, said Bounty Bills, Accounts, or Votes may be received by the Treasurer, who is hereby directed to give his Receipt

Treasurer may receive Bounty Bills &c. as Cash.

Y y

or

or Receipts for the said Sum or Sums, bearing Interest in Manner herein directed.

Interest to be paid
Annually.

V. *And provided always and be it further Enacted*, That if there should not be Money sufficient in the Treasury, to discharge the several Receipts so issued, when the same become payable, that then in such Case, the Treasurer is hereby authorized and directed to pay off the Interest as the same becomes annually due, out of such Monies as may then be in his Hands, arising from the Duties of Impost and Excise.

Treasurer to state
Interest on Bounty
Bills, &c.

VI. *And Whereas the former Acts, empowering the Province Treasurer to borrow Monies to pay off the Bounties, Premiums, and other Debts payable by the Laws of this Province, have been found insufficient to discharge the whole of the Bounties and Premiums, and other Debts, which were to have been discharged with the Money borrowed by the said Acts, as sundry of the said Bounty and Premium Certificates and other Debts are still outstanding: And Whereas it is reasonable that such Certificates or Debts should bear Interest, as they could not then be paid; Be it Enacted*, That the Treasurer aforesaid, shall state and allow Interest for all such Certificates and outstanding Debts, in the Manner as prescribed by the said Acts.

Receipts to be en-
tered with the Clerk
of the Audits.

VII. *Provided always and be it Enacted*, That all Receipts to be issued by the Treasurer in Virtue of this Act, shall be entered with the Clerk of the Audits, before they are issued from the Treasury.

Application of Mo-
nies collected by
Duties, &c.

VIII. *And be it further Enacted*, That all Monies which may be collected by virtue of the several Laws of this Province, and which are appropriated for the Payment of Bounties, Premiums, and other Accounts of Money due as aforesaid, over and above what will pay the Interest of Money borrowed by the Government, shall, after discharging the Former Loan Creditors, be applied for paying off the Receipts given by the Treasurer for Monies borrowed, or Bounty and Premium Certificates received in by virtue of this or the said former Acts.

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At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *Twenty Eighth* Day of *May*, *Anno Domini* 1765, in the Fifth Year of the Reign of Our Sovereign Lord *GEORGE* the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. being the First Session of the Fourth GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT for the Choice of Town Officers and regulating of Townships.

***** HEREAS the Method of nominating the respective Town
***** Officers herein after mentioned by the Grand Jurors for the
***** several Counties, as directed by the Laws of this Province,
is found inconvenient; Be it Enacted by the Governor, Coun-
cil, and Assembly, That the Grand Juries for the several Counties
in this Province, at the Court of General Sessions of the Peace for
each County respectively, next ensuing the Publication of this Act,
and thereafter annually at the First Sessions of the said Court, shall
nominate out of every Township in the said County, Ten fit Per-
sons, out of whom the said Court shall appoint Five to be Surveyors
of Lines and Bounds of each respective Township, who are hereby
impowered to survey, examine, and ascertain the Lines and Bounds
of their said respective Townships, agreeable to the several Grants
thereof, and who shall also be Overseers of the Poor of the said Town-
ship; and at the same Time the said Grand Jury shall in like Manner
nominate two Persons, one of whom the Court shall appoint to be
Town Clerk of the said Town, who shall be sworn truly to enter
and record all such Matters and Things, as shall relate to the said
Township, and shall appertain to his Office; and shall also nomi-
nate Four or more Constables, of whom the Court shall appoint
Two or more as they shall see convenient to be Constables in the
said Township; and also shall nominate Four Surveyors of High-
ways, of whom the said Court shall appoint Two to be Surveyors
of Highways in the said Township; and also shall nominate Four
Fence Viewers, of whom the said Court shall appoint Two to be
Fence

Preamble.

Grand Jury at the
first General Quar-
ter Sessions Annual-
ly to nominate, and
the Court to ap-
point,

Surveyors of Lines
and Bounds, and
Overseers of the
Poor,

Town Clerk,

Constables,

Surveyors of High-
ways,

Fence Viewers,
Clerk of the Mar-
ket,

Pound Keepers,

Cullers and Survey-
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Surveyors of Lum-
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Sealers of Leather,

Gaugers of Casks,

Hogreaves,

Persons refusing to
accept, or being
guilty of Neglect or
Misbehaviour, to
forfeit 40s. for the
use of the Poor,

In Case of Absence,
&c. others to be ap-
pointed by two
Justices.

Not to extend to
any Towns that
may be hereafter in-
corporated.

Boundary Line, to
be run and Marks
to be renewed once
in three Years.

Fence Viewers in the said Township; and also shall nominate Two Clerks of the Market, of whom the said Court shall appoint One to be Clerk of the Market in said Township; and shall also nominate Four Pound Keepers, of whom the said Court shall appoint a sufficient Number in their Discretion to be Pound Keepers in the said Township; and shall also nominate Four or more Cullers and Surveyors of Fish, of whom the said Court shall appoint a sufficient number in their Discretion to be Cullers and Surveyors of Fish in the said Township; and shall also nominate Four Surveyors of Lumber and Cord Wood, of whom the said Court shall appoint two to be Surveyors of Lumber and Cord Wood in the said Township; and shall also nominate Two Sealers of Leather, of whom the said Court shall appoint one to be Sealer of Leather in the said Township; and shall also nominate Four Gaugers of Casks, of whom the said Court shall appoint Two to be Gaugers of Casks in the said Township; and shall also nominate Four Hogreaves, of whom the said Court shall appoint Two to be Hogreaves in the said Township; who shall respectively be sworn to the faithful Discharge of their Duty in Manner as is already prescribed by the Laws of this Province, and shall in every respect conform to the said Laws, and upon their, or any of their Refusal to accept, or being guilty of any Neglect, or Misbehaviour in the Execution of the Duty of their respective offices, they shall forfeit and pay for the Use of the Poor of the said Township, the Sum of Forty Shillings for every such Refusal, Neglect, or Misbehaviour; to be recovered upon Proof of such Refusal, Neglect or Misbehaviour, by the Oath of one Credible Witness, before any Two of His Majesty's Justices of the Peace for the County wherein such Township lies, to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, any Law, Usage, or Custom to the contrary notwithstanding: And if any Person so nominated and chosen, shall leave the Province, change the Town of his Residence, or happen to die within the Period, for which he was nominated and appointed to serve in any of the said Offices, in such Case any Two of his Majesty's Justices of the Peace for the County, shall and may nominate and appoint a fit Person or Persons, to serve in such vacant Office, until another shall be nominated by the Grand Jury, and appointed by the said Court of General Sessions, at their Meeting next ensuing such Vacancy.

II. *Provided always*, That nothing in this Act contained shall extend, or be construed to extend to restrain any Privileges that may hereafter be granted, by any Charter of Incorporation, to any Town or Towns within this Province.

III. *And for the better regulating the several Townships in this Province; Be it Enacted*, That the original Boundary Lines of each and every Township or District within this Province, shall be run betwixt

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betwixt Township and Township, and Marks renewed once in Three Years, viz. on the First Monday in March; by the Surveyors of Lines and Bounds appointed for the respective Townships, as directed by this Act, or the major Part of them, and the Persons so appointed for each respective Township are hereby impowered and directed to give Six Days Notice to the Persons appointed for the adjacent Township, of the Time and Place of Meeting for such Survey, and any Person or Persons appointed as aforesaid, refusing or neglecting to attend at the Place mentioned in such Notice, being duly served therewith, shall forfeit and pay the Sum of Forty Shillings each, to be recovered on Complaint before any Two of his Majesty's Justices for the County where such Complaint shall be made, and one Half of the Forfeiture shall be paid to the Person or Persons who shall complain and prosecute for the same, and the other Half to the Overseers of the Poor, for the Use of the Poor of such Towns from whence the Complaint was made; and whenever the Surveyors of any Township, which shall have had Notice as aforesaid, shall refuse or neglect to attend the said Business, the Surveyors who shall have given such Notice shall, and they are hereby impowered to proceed in running and making such Line, which shall be as effectual as if the Surveyors of both Townships had joined.

On Six Days Notice, Surveyors

neglecting to attend, forfeit 40s.

IV. *And be it further Enacted*, That each and every Proprietor of Lands laying unfenced, or in any Common Field, shall once in Two Years on Six Days Notice given him, his Agent, or Attorney, by the next Proprietor or Proprietors adjoining, run the Lines, make and keep up the Boundaries of such Lands or Common Field, by Stones or other sufficient Marks, and every Party so neglecting or refusing, shall forfeit the Sum of Twenty Shillings, one Half of which shall be to the Party complaining, and the other Half to the Overseers of the Poor for the Use of the Poor of said Township, and to be heard and determined before any One of his Majesty's Justices of the Peace within the same County; and the Proprietors of any Field held in Common, whether divided or undivided, shall, and they are hereby impowered to, order, improve and fence, in such Way or Manner as shall be concluded and agreed upon by the major Part of the interested therein; the Voices to be collected and accounted according to their respective Interests; and if any Person shall refuse to make, keep up, support, and maintain his quota Part or Proportion of such Fence so agreed on to be made, and shall on Notice given him for that Purpose by any one of the Proprietors concerned with him in the said Common Field, neglect the same for the Space of Thirty Days, the Fence Viewer shall, on Application being made to him, make and set up the deficient Fence, or repair any Fence already made, if in his Judgment the same is insufficient, and the Person or Persons, that of Right ought to build and maintain the same, shall pay double the Costs and Charges.

Proprietors of Lands unfenced,

or Common Fields once in Two Years.

on Six Days Notice, to run the Lines and keep up the Boundaries, or forfeit 20s

Common Fields to be ordered, improved and fenced, as shall be agreed on by the major Part of the Proprietors.

Persons refusing to fence their Proportion, to pay double the Cost for the same, to be done by the Fence Viewer.

Charges expended for the doing thereof, and in Case of Refusal such Fence Viewer may recover the same before the *Inferior Court of Common Pleas* or before One or Two Justices according to the Value thereof; and the said Fence Viewer, shall be allowed Three Shillings *per Day* for his own Trouble, and Time expended therein.

Persons neglecting to comply with Regulations made by Proprietors of Common Fields, forfeit 10s.

V. And if any Person or Persons shall neglect or refuse to comply with any Regulation made by the Proprietors of any Common Field as aforesaid, which Regulation shall be made annually, he or they shall forfeit and pay the Sum of Ten Shillings, for the Use of the Poor of the Town where such Common Field shall lie; to be recovered by the Oath of One credible Witness before any One of his Majesty's Justices of the Peace for the County wherein such Lands are, to be levied by Distress and Sale of the Offender's Goods and Chattels, and shall moreover make Satisfaction for all Damages that may have arisen by such Neglect or Refusal.

Cattle to be branded.

VI. And Whereas many Inconveniencies have arisen for want of Cattle being branded or otherways marked, that run in Common, Be it Enacted, That all and every Owner of any Horse or Horses, Neat Cattle, Sheep or Swine, shall brand or otherways mark such Horse or Horses, Neat Cattle, Sheep or Swine, in such Manner as that the same may be clearly known; and shall enter such Mark or Brand with the Town Clerk, in a Book to be kept by him for that Purpose, and the said Town Clerk shall receive for Recording the said Mark or Brand the Sum of Six Pence.

C A P. II.

An ACT in Addition to and Amendment of an Act, made and passed in the First Year of His Majesty's Reign, intituled *An Act for repairing and mending Highways, Roads, Bridges, and Streets, and for appointing Surveyors of Highways, within the several Townships in this Province.*

***** E it Enacted by the Governor, Council, and Assembly, That
B where a new Highway or Common Road from Town to Town, or Place to Place in any County in this Province, shall be wanting, and where old Ways with more Convenience may be turned or altered; upon Application made to the Justices in General Sessions within the same County, the Court is hereby impowered to appoint two or three sufficient Freeholders of the next Towns, who shall have most Occasion of the said Way,

New Highways or Common Roads, to be laid out by a Jury, sworn at the General Sessions for that Purpose.

to enquire their Re- sity or C- voft Ma- Towns, tioned, have an- out such- most Cor- to any pa- shall or l- pointed b- Jurors, b- may be a- Highway- aforefaid,

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to enquire into the Necessity and Conveniency thereof, and to make their Report thereon, and being judged to be of common Necessity or Conveniency, the Justices shall order a Warrant to the Provost Marshal or his Deputy to summon a Jury out of the next Towns, to meet at some convenient Day and Place therein mentioned, to view and lay out such Highways or Roads, who shall have an Oath administered to them by a Justice of the Peace, to lay out such Way according to their best Skill and Judgment, with most Conveniency to the Public, and least Prejudice or Damage to any particular Person; which having done, the Provost Marshal or his Deputy is to make a Return thereof on the Day appointed by the Court, as well under his own, as the Hands of the Jurors, by whose Oath the same is laid out, to the End the same may be allowed of and recorded, and after known for a Public Highway; and all Public Highways hereafter to be laid out as aforesaid, shall not be less than One Hundred Feet wide.

Highways not to be less than 100 Feet wide.

II. *Provided always, and be it Enacted*, That before such Road or Highway is allowed and recorded for a Public Highway, the Court shall cause Notice to be given thereof for the Space of Thirty Days, to the Intent that if any Person shall think himself aggrieved thereby, he may make his Complaint thereof, and Inquiry be made into the Cause of such Complaint.

30 Days Notice to be given, that any Person aggrieved, may complain.

III. *And be it further Enacted*, That the Surveyors of the Highways of each Town respectively, be and are hereby empowered to lay out particular and private Ways, either open or pent, with Swinging Gates for such Town only, as shall be thought necessary by the Justices of the Peace in their *General Sessions*, upon Application made to them by the Persons concerned: *Provided*, that no Damage be done to any particular Person in his Land or Property, without due Recompence to be made by the Town, as the Surveyors of the Highways and the Party interested may agree, or as shall be ordered by the Justices in *General Sessions*, upon Inquiry into the same by a Jury to be summoned for that Purpose.

Private Roads to be laid out by the Surveyors of Highways.

Not to endamage any particular Person without due Recompence.

IV. *And be it also further Enacted*, That if any Person or Persons shall alter any Public Road or Highway, or any private Road that shall be laid out as aforesaid, or that shall make any Encroachment upon the same, not being first authorized so to do by due Course of Law; such Persons shall, upon Complaint and due Proof thereof made before the Court of *General Sessions* of the Peace for the County, where such Highway lay before it was so altered or encroached upon, forfeit Five Pounds, to be levied by Distress and Sale of the Offender's Goods and Chattels, by Warrant of the Court who shall hear the said Complaint; and all Forfeitures so to be levied shall be paid to the Surveyors of the Highway of the Township, from whence the Fine was levied, to be applied for repairing Highways, Roads, Streets and Bridges, within the same.

Any Person altering or encroaching on any Road,

forfeits £5.

to be applied to the repairing Highways, &c.

V. *And*

V. *And Whereas in and by the Act made and passed by the General Assembly of this Province, in the First Year of His Majesty's Reign intitled "An Act for repairing and mending Highways, Road Bridges and Streets, and for appointing Surveyors of Highway within the several Townships in this Province," it is among other Things Enacted, "That the Constables of the several Townships in this Province shall in Writing making an equal Division, set out to the Surveyors of Highways the several Roads, Highways and Streets, on which each of them shall respectively labour, and deliver also a List signed by them of such Persons, as shall live within the District wherein such Highways, Roads, or Streets are allotted to each of them, to be employed by them respectively, and who accordingly shall be reputed to be the Persons obliged by the said Act to labour."* And Whereas it is thought most proper, that the Surveyors of the Highways, should themselves set out the several Roads, Highways and Streets, which require Repair; Be it therefore Enacted, That the Constables of the several Townships in this Province shall make out a List of all such Persons who are Owners of Teams, Carts or Trucks, as also of every other Householder and Labourer within their respective Townships, and deliver the same to the Surveyors of Highways; and at such Time as the said Surveyors shall judge proper, between the Days prescribed by the afore recited Act, the said Constables shall summon so many of the Persons contained in said Lists, as the Surveyors shall direct from Time to Time.

Constables to return to the Surveyors, a List of the Owners of Teams, &c. and of Persons liable to labour.

Persons between the Age of Sixteen and Sixty obliged to labour on the Roads, or pay a proper Person.

VI. *And be it also Enacted,* That all Persons able of Body between the Age of Sixteen Years and Sixty shall be obliged to labour at the said Roads, Highways, Streets and Bridges, or procure or pay a proper Person for the same.

C A P. III.

An ACT for empowering the Justices of the Peace for the County of *Halifax*, to hold a Court of *Special Sessions of the Peace* at *Windsor* in said County, for the Townships of *Windsor*, *Onslow* and *Truro*.

***** *HEREAS* the great Extent of the County of *Halifax*, and the Distance between the Town of *Halifax* and the Townships of *Windsor*, *Onslow*, and *Truro*, makes the Attendance of Persons resident in those Townships, at the General Sessions of the Peace, held for the said County at *Halifax*, very inconvenient. Be it Enacted by the Governor, Council, and Assembly, That there shall be held and kept within the Township of *Windsor*, in the County

Preamble.

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County of *Halifax*, in every Year, on the last Tuesday of June, and the Second Tuesday of October, a *Special Court of General Sessions of the Peace*, and any Three or more Justices for the County of *Halifax*, One whereof to be of the Quorum, shall and may hold the said Court, and such Court shall have, hold, use, exercise and enjoy all and singular the Powers, which are by Law already given and granted unto Courts of *General Sessions of the Peace*, so far as relates to all such Matters and Things arisen, or which shall arise within the said Townships of *Windsor, Onslow, and Truro*.

Special Sessions to be held at *Windsor*, on the last Tuesday of June and the second Tuesday of October annually, for the Townships of *Windsor, Onslow and Truro*.

C A P. IV.

An Act in further Addition to and Amendment of an Act made and passed in the Thirty Fourth Year of his late Majesty's Reign, intituled *An Act for the appointing Commissioners of Sewers*.

HEREAS in the last Clause of an Act made and passed by the General Assembly of this Province, in the Third Year of His Majesty's Reign, intituled "An Act in Addition to, and Amendment of an Act for the appointing Commissioners of Sewers," It is Enacted, "That if any Proprietor or Proprietors of the Lands dyked in or drained, are absent, and no Person appearing in their Behalf, and have not any Goods or Chattels to answer his, her, or their Dividend or Proportion of such Assessment made as aforesaid, it shall and may be lawful for any One of His Majesty's Justices of the Peace for the County, where such Lands lie, to let out any Part of such Delinquent's Lands, that may be sufficient to pay, by the Produce of the same, any such Dividend or Proportion of the Sum so due." But no Provision is made to collect from any Proprietor or Proprietors, being present and not having any Goods or Chattels to answer his, her, or their Dividend or Proportion of any Assessment, made in Virtue of the before mentioned Act; Be it Enacted by the Governor, Council, and Assembly, That any Proprietor or Proprietors of any Lands dyked in, or drained, as directed in and by the before mentioned Act, being present and not having any Goods or Chattels, to answer his, her, or their Dividend or Proportion of any Assessment made by Commissioners of Sewers according to Law, it shall and may be lawful for any One of his Majesty's Justices of the Peace for the County where such Lands lie, to let out any Part of such Delinquent's Lands, that may be sufficient to pay by the Produce of the same, any such Dividend or Proportion of the Sum so due.

Preamble.

3. Geo. 3. c. 10.

Delinquent Proprietor's Lands, to be let out by one Justice to pay their proportion for Dyking &c.

Appeal to the Ge-
neral Sessions.

II. *Provided always*, That if any Proprietor or Proprietors of Lands, let out as aforesaid, shall think himself or herself aggrieved by the Proceedings of any Justices of the Peace, in letting out his, her or their Lands as aforesaid, such Proprietor or Proprietors, by themselves or their Attornies or Agents, may complain to the Justices in their *General Sessions of the Peace* for said County, for Relief therein.

C A P. V.

An ACT to enable the Inhabitants in the several Townships in this Province, (*Halifax* excepted) to cause any absent Proprietor of Lands within the same to pay a Dividend or Proportion of any County or Town Charge to be assessed according to Law, and to bear their just Proportion in repairing *Highways, Roads, and Bridges* within the said Townships respectively.

Preamble.

*** HEREAS there are many Non resident Proprietors of Lands within this Province, whose Lands are enhanced in their Value by the Labour of those who are present, and the Burthen of the necessary County and Town Charges being heavy on the resident Proprietors; Be it Enacted by the Governor, Council, and Assembly,

Non resident Proprietors to pay their Proportion of all County and Town Charges,

That each and every Non resident Proprietor or Proprietors of Lands in any Township within this Province, (the Township of *Halifax* excepted) shall pay or cause to be paid, his, her, or their just Dividend or Proportion of all County and Town Charges hereafter to be assessed in such County and Township, and upon failure thereof the same to be recovered as directed by the Laws empowering such Assessment, and each and every Non resident Proprietor or Proprietors of Lands in any Township, shall be obliged to do and perform his, her, or their Parts or Proportion of Labour on the Highways, Roads, and Bridges, within their respective Townships, or pay for the same as delinquent Inhabitants are by Law directed.

and for Labour on the Highways,

on failure, one Justice may let out such Delinquent's Lands for Payment thereof.

II. *And be it also Enacted*, That if any Proprietor or Proprietors of Lands in any Townships as aforesaid shall be absent, and no Person appearing in their Behalf, on public Notice being given in the *Halifax Gazette*, to pay his, her, or their Dividend or Proportion of any Assessment made in virtue of any Law of this Province, and to labour on the Highways, Roads and Bridges as aforesaid, and not having any Goods and Chattels to answer his, her, or their Dividend

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Dividend or Proportion of any Charge made as aforesaid, it shall and may be lawful for any One of his Majesty's Justices of the Peace, who are hereby impowered, to let out any Part of such Delinquent's Lands, as may be sufficient to, by the Produce of the same, any such Dividend, Proportion or Charge so due; and in Case the Lands of such Absentee, should not for the present, produce sufficient to pay the Quota of his, her, or their Proportion of such Assessment, that then the Lands of such Delinquent shall be held chargeable therewith.

III. *Provided always*, That if any Proprietor or Proprietors of Lands, let out and held as aforesaid, shall think himself or herself aggrieved, by the Proceedings of any Justice of the Peace, in letting out his, her or their Lands as aforesaid, such Proprietor or Proprietors, by themselves or their Attornies, may complain to the Justices in their *General Sessions of the Peace* for said County, for Relief therein.

Appeal to the General Sessions.

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C A P. VI.

An Act for the raising Money by Presentment on the several Counties in this Province, for the defraying certain County Charges therein mentioned.

*** E it Enacted, by the Governor, Council, and Assembly, That
* B * from and after the Publication hereof, it shall and may be
*** lawful for the several Grand Juries in each of the several
Counties in this Province, either at the Court of *Affize*, or
General Sessions of the Peace held for such County, to present annually a proper and fit Person, one of the Freeholders of said County, to be a Treasurer for said County for the Year ensuing, and such Person being approved of by the Court, shall be sworn to the due Execution of his Office, and Invested with all the Powers and Trusts, as herein after directed.

Eng. Stat. 43. Eliz. c. 3.
Grand Juries at the Court of Affize or General Sessions of the Peace, to present annually a proper Person to be County Treasurer, to be approved and sworn by the Court.

II. *And be it further Enacted*, That it shall and may be lawful for the several Grand Juries in each of the several Counties within this Province, either at the Court of *Affize* or *General Sessions of the Peace* held for such County, to make Presentment, upon proper Representations made thereon by three or more Freeholders of the said County, or of their own Knowledge, of all such Sum and Sums of Money or Expences that may be found to have arisen, or that may be absolutely necessary to be raised for the building or repairing a County Gaol, or for the building or repairing a Court or Session House, erecting Stocks, Pillories, or Pounds, and providing

Eng. Stat. 11 & 12. W. 3. c. 19. Stat. 1. *directed Notice to Represent at Gaol*.
Grand Juries to present what Sums are necessary to be raised for building & repairing a Gaol &c.

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† *Eng. Stat. 3 Jac. 1.*
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ding Bolts and Shackles, as also for the conveying † of Persons accused of any Treason or Felony, to the County Gaol, being Three Miles distance or upwards, so as the same do not exceed Six Pence per Mile; as likewise for the support of poor Criminals in Gaol.

Monies to be paid
into the Treasurer's
Hands, &c.

III. *And be it also further Enacted*, That all Money so raised by Presentment as aforesaid, and levied from off the Inhabitants of the several Counties, shall be paid into the Hands of the County Treasurer, and shall not be applied to any other Use than such for which the same was raised; and if any Person or Persons who shall be appointed in the said Presentment and Order thereon, to be the Director or Directors, Overseer or Overseers of the Work, or the Distributor or Distributors of the Money hereby raised, for which such Presentment was made, shall not at the next *General Assizes* or *General Sessions* of the County, or in a reasonable Time to be by them appointed, make appear in his or their Account or Accounts, with good Vouchers, that the Money so raised and received by him or them, shall have been expended pursuant to said Presentment to the Use of the County, he or they shall still be chargeable with the same; and every Person so accountable for any Public Money shall, when required by the Justices at their *General Sessions* or by the Judges of *Assize* at their *General Gaol Delivery*, make up their Accounts on Oath, and if such Accountants shall neglect to make a fair and just Account of all such Public Money or shall upon such Accounts be found to have such Money or any Part thereof remaining in his or their Hands, such Accountants shall forthwith pay such Money into the Hands of such Persons, as shall by such Grand Jury and Justices of the Peace or Judges of *Assize*, be presented and ordered for the Use of such County where such Public Money shall be raised; and in Default thereof such Person or Persons so accountable, shall by the Justices at their said Sessions or Judges of *Assize* at their respective *Assizes* be committed to the Common Gaol, in Execution, until such Accounts shall be made and Balance paid, or sufficient Sureties given for the same.

For the Use of the
County.

No Presentment to
be confirmed till
the last Day of the
Court's Sitting.

IV. *Provided always, and be it Enacted*, That no Presentment for the raising Money as aforesaid, shall be confirmed by the Judges of *Assize* or the Justices in *General Sessions*, until the last Day of the Sitting of the said Court of *Assize* or *General Sessions of the Peace*, and such Presentment so made shall be posted up in the Court House from the Time of its being made till the same is confirmed, to the End that all Persons concerned may have Notice thereof, and object against and traverse the same, if they see convenient.

Ten Pounds per Ann.
to be allowed to the
Treasurer for his
Services.

V. *And be it further Enacted*, That it shall be lawful for the several Grand Jurors in each County in this Province, at the *Assizes* and at the *General Sessions of the Peace* to make Presentment if they think fit, and for the Judges and Justices to confirm the same, for the raising any Sum not exceeding Ten Pounds per Annum, to be

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be paid to the Treasurer of each County for his Services in that Station; and also that it shall and may be lawful for said Grand Juries to present Three or more good and sufficient Freeholders for every Township in said County, to be Assessors for said Township, who are to be approved of by the Court, and are to be sworn by the said Court, or before any One of His Majesty's Justices of the Peace, to the due and faithful Execution of the Office to which they are appointed, and that without Favour or Affection, Hatred or Malice, to the best of their Skill and Knowledge; and in Case any Person, who may be appointed as Assessor as aforesaid, and shall refuse to accept the said Office, another Person shall immediately be appointed in his stead by the Court, or by any Two of His Majesty's Justices of the Peace, and the Person so refusing shall forfeit the Sum of Forty Shillings, to be recovered by Bill, Plaint, or Information in any of His Majesty's Courts of Record, or before any Two of His Majesty's Justices, and be paid to the Treasurer of the County, for the Use of the County wherein such Assessor was appointed.

Ten Pounds per An.
to be allowed to the
Treasurer for his
Services.

Three Assessors to
be appointed by the
Grand Jury and
sworn.

Persons refusing to
accept, forfeit 40s.
and another to be
appointed.

VI. *And be it also further Enacted*, That the Judges of *Assize* or Justices in *General Sessions* for each County, shall agree and determine each respective Town's Proportion of the Sum so presented and confirmed by the Court; and the Sum so proportioned, shall be assessed on the Inhabitants in each Township, in the justest and most equal Manner they can devise, and the same shall be levied by the Constables of the said Townships respectively, by Warrant under the Hand and Seal of any Two of His Majesty's Justices of the Peace for the said County, and in Case of Refusal, by Distress and Sale of the Goods and Chattels of the Person refusing or neglecting to pay the Sums assessed on them as aforesaid, with the Charge of such Distress and Sale, returning the Overplus if any; and in Case any Person or Persons shall think themselves aggrieved by such Assessment or Levying thereof, they shall be at Liberty to appeal to the next *General Sessions* held for the County, who are finally to determine the same; and the Money, when so levied, shall be paid into the Hands of the County Treasurer, who is to pay the same to the Persons, as directed in the Presentment.

Judges of *Assize* or
Justices of *Sessions*,
to determine each
Town's Proportion.

To be levied by
Warrant from Two
Justices.

Persons aggrieved
may appeal to the
next *Sessions*.

VII. *And be it Enacted*, That the Treasurer in each County shall make up his Accounts upon Oath of all his Receipts and Payments, at every Court of *Assize* or *General Sessions* held for said County, to be approved or disapproved by said Courts, and the same shall be filed in the Office of the Clerk of the Peace for said County; and no Treasurer or other Person or Persons concerned, is to compound for any Money to be raised on said County, nor make any Deduction whatsoever for any Sum he or they shall pay to any Person or Persons, but such as he or they shall account for by proper Vouchers; and if any Treasurer shall offend herein, or neglect to make up his Account as aforesaid, he shall for ever be incapable to serve as Treasurer again, and be committed to Gaol

Treasurer to make
up his Accounts at
every Court of
Assize or *General*
Sessions.

without Bail or Main Prize, until he fairly accounts with the Court of *Affize* or *General Sessions of the Peace* held for such Town or County, and from the said Court to receive a Certificate of his having passed his Accounts to their Approbation.

C A P VII.

An ACT for regulating Servants.

Preamble.

Vide Statute enacted in Ireland, 2. Geo. 2. c. 17. Sect. 3, 4, 5, & 7. to the purpose Effect, with the 1st. & 2d. Sections of this Act.

Servants hired for any Term not less than Six Months, to have a Certificate from their Master or Mistress, when discharged;

Any Person harbouring or entertaining any Servant without such Certificate, to forfeit £10.

If any Master refuse to give his Certificate to his Servant upon his Discharge, he may apply to a Justice of the Peace, who shall inquire into the Circumstances.

***** *HEREAS great Damage and Inconveniencies have arisen, and daily do arise by Apprentices and bound and hired Servants, deserting and leaving their Service without a legal Discharge; For Prevention whereof, Be it Enacted by the Governor, Council, and Assembly That from and after the Publication hereof, all Servants bound by Indenture, or hired Servants for any Time not less than Six Months, at the Expiration of the Term for which they were bound or hired to serve, shall have from their Master or Mistress a Certificate or Discharge of such Servants having served his or her Time, which shall be a sufficient Warrant for any Person to entertain or take such Servant into his or her Service, and the Person hiring such Servant shall take his or her Certificate or Discharge, and keep it until the Time, then contracted for, be expired; and if any Person shall knowingly take into his or her Service, or knowingly harbour or entertain, any Person who has been in any former Service, without such Certificate or Discharge, such Person being thereof convicted at the General Sessions of the Peace, held for the County or Place where such Offence shall be committed, shall forfeit Ten Pounds; to be levied by Distress and Sale of the Offender's Goods and Chattels, by Warrant from such General Sessions; one Moiety of which Forfeiture shall be to the Poor of the Township where the Offender resides, and the other Moiety to the Informer who shall discover and prosecute the same.*

II. *Provided always, That in Case any Person shall refuse to give his or her Servant a Certificate or Discharge as aforesaid, such Servant may apply to some neighbouring Justice of the Peace of the County wherein such Master or Mistress inhabits, who shall give Notice to the Master or Mistress of such Servant, and require from them respectively the Reason why such Servant is refused such Discharge and Certificate of his or her Service; and in Case no regard be paid to such Notice, within Five Days, or that the Justice shall sooner, by a Reply to such Notice, find that the Cause of the Refusal of such Discharge or Certificate was not sufficient, the said Justice is required to give a Certificate thereof, or of such Reasons as the Master or Mistress gave for refusing such Discharge or Certificate, that such Person who is about to hire such Servant,*

may

h the Court
h Town or
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may be apprized of such Servant's Behaviour, and judge thereof before he or the hires such Servant, for which Certificate no Fee shall be paid; and the said Certificate shall be as good as if the same had been given by such Master or Mistress; and any Servant who shall be convicted of counterfeiting or producing a counterfeited Certificate, under the Hand of any Master or Mistress, or Justice of the Peace, by the Oath of One or more Witnesses, or by such Servant's own Confession, before Two of His Majesty's Justices of the Peace, shall be publickly whipped at the Discretion of such Justices.

Any Servant counterfeiting any Certificate, to be publickly Whipt.

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III. *And be it further Enacted*, That all bound or hired Servants as aforesaid, who shall desert or absent themselves from their Master or Mistress's Service, shall be liable to make Satisfaction by Service, after the Time by Indenture or Agreement is expired, double their Time of Service so neglected, and if the Time of their Detention or Absence was at Seed Time or Harvest, or during the Fishing Season, and the Charge of recovering them extraordinary, the Court of *General Sessions of the Peace*, before whom the Complaint shall be made, shall adjudge a longer Time of Service proportionable to the Damage the Master shall make appear he hath sustained.

Servants who shall desert or abscond, to make Satisfaction by serving double the Time, on the Order of the Sessions.

IV. *And Whereas the adjudging the Time such bound or hired Servant should serve, is often referred until the Time by Indenture or Agreement is expired, when the Measure of such further Service may be rendered difficult to ascertain*; Be it Enacted, That the Master or Mistress of any Servant so deserting or absconding themselves, that intends to take the Benefit of this Act, shall so soon as he or she hath recovered such Servant, carry him or her to some One of His Majesty's Justices of the Peace, and there declare and prove the Time of his or her Absence, and the Charge he hath been at in his or her Recovery, which Justice thereupon shall grant his Certificate thereof, and the Court shall and may, on such Certificate, pass Judgment for the Time such Servants, so deserting or absconding themselves, shall serve for his or her Absence.

Complaint to be first made to a Justice of the Peace.

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V. *And be it also Enacted*, That every Master or Mistress shall provide for his or her Servant according to the Tenor of their Agreement, and any bound or hired Servant as aforesaid, having just Cause of Complaint against his or her Master or Mistress for cruel and bad Usage, may and shall, on Application to Two of His Majesty's Justices of the Peace, be heard concerning the same; *Provided* such Complaint be made within a reasonable Time, not exceeding Ten Days after the Cause given, unless such Servant is prevented by his or her Master or Mistress or by Sicknes; and if the said Justices shall find by sufficient Proof, that the said Servant's Cause of Complaint is well founded, the said Justices are hereby required to make an Order for the Relief of such Servant by discharging

Complaints of Servants for cruel and bad Usage, to be heard and determined by Two Justices.

Appeal to the Sessions.

charging him or her from their Service, or otherwise as they may see fit, and if either Party shall not be satisfied with the Order of the said Two Justices, they may appeal to the next Court of General Sessions of the Peace, where the Matter shall be finally determined.

Masters of Vessels not to harbour, &c. any bound or hired Servant,

on Penalty of £10.

VI. *And be it also further Enacted*, That no Master of any private Ship or Vessel of War, or Master of any Merchant Ship or Vessel, coming into, tarrying or abiding in, or going forth from any Port, Harbour, or Place within this Province, shall receive, harbour, entertain, conceal or secure on board such Ship or Vessel, or suffer to be there harboured or detained, any bound or hired Servant as aforesaid, knowing them to be such, without Licence or Consent of his or her Master or Mistress in Writing, under his or her Hand, first had and obtained, on Pain of forfeiting Ten Pounds for every such Offence; which Forfeiture shall be applied and disposed of, as is directed in and by the first Clause of this Act, and shall be recovered by Bill, Complaint, or Information in any of His Majesty's Courts of Record in this Province.

Indentures of Servants hired in Great Britain, &c. to be examined by a Justice before they are assigned.

VII. *And Whereas it often happens, that indented Apprentices or Servants are contracted with in Great Britain, Ireland, or other of His Majesty's Dominions, and imported into this Province, and there assigned over to the Inhabitants thereof, without the previous Knowledge or Consent of such Apprentice or Servant; Be it therefore Enacted*, That before any Inhabitant shall accept of the Assignment of any such Indenture, he shall, with the Parties, go before some One or more of His Majesty's Justices of the Peace, who shall examine whether the Indenture proposed to be assigned, be made and executed agreeable to Law, and whether the Apprentice or Servant has any legal Objection to the Assignment thereof, and to determine the Validity of such Objections, a Certificate of which Judgment shall be recorded by said Justice or Justices†.

Persons engaging in the Fishery as a Salter, &c. and not capable of his Duty, to forfeit his Wages.

VIII. *And be it further Enacted*, That if any Servant shall engage and contract himself with any Person or Persons, carrying on the Fishery, in the Capacity of a Salter, Splitter, or Shoreman, and shall upon Trial be found incapable, and unqualified to discharge the Duty of the Station, for which he shall have contracted himself, such Servant, upon due Proof of his Incapacity before any One of His Majesty's Justices of the Peace, shall forfeit and lose all Wages due to him for his Service in such Employment, whereof he shall be so found incapable.

† Qu. & Vide Brit. Stat. 4. Geo. 1. c. 11. extended to all His Majesty's Dominions in America, Sect. 5. for binding Infants to Service by Transportation to America—and Sect. 3. for transporting Convicts, &c.

C A P. VIII.

An ACT in Amendment of *An Act for confirming Titles to Lands and Quieting Possessions.*

32. Geo. 2. c. 2.

***** HEREAS by a Resolution or Act of the Governor and Council of this Province, made before the Calling a General Assembly, and afterwards confirmed by the General Assembly of this Province, it is among other Things resolved, "That the Register for the Time being or his Deputy, shall be allowed for the Entry of every Memorial as is by this Act directed to be registered, the Sum of One Shilling and no more, in Case the same do not exceed Two Hundred Words, and if more, then after the Rate of Six Pence an Hundred for all the Words contained in such Memorial, over and above the first Two Hundred Words, and the like Fees for the like Number of Words contained in every Certificate or Copy given out of the said Office, and no more; and for every Search in the said Office One Shilling and no more:" And Whereas by an Act made and passed in the Thirty Second Year of his late Majesty's Reign, intituled An Act for confirming Titles to Lands and quieting Possessions, it is Enacted, "That the Register of Deeds and Conveyances in this Province, shall for the future in Lieu of any Memorial, register all Deeds and Conveyances in Words at full length, for which he shall demand and receive such Fees for registering, as in like Manner hath been heretofore allowed;" which Fees have been found an insufficient Recompence for the Attendance and Trouble necessarily attending the due Execution of that Office, as required by the aforesaid Acts; Be it therefore Enacted by the Governor, Council, and Assembly, That from and after the Publication hereof, the Register of Deeds and Conveyances in this Province, or his Deputy, shall and may demand and receive the Sum of Two Shillings for every Deed registred pursuant to the aforesaid Act, in Case the same do not exceed Two Hundred Words, and if more, then after the Rate of One Shilling an Hundred for all the Words contained in such Deed over and above the first Two Hundred Words; and the like Fees for the like Number of Words contained in any Copy, given out of the said Office; and for every Certificate One Shilling, and for every Search in the said Office One Shilling and no more, any Law, Usage, or Custom to the contrary notwithstanding.

Preamble.

Register's Fees established.

C A P. IX.

An A C T to impower the Province Treasurer to issue small Notes in Exchange for the large Notes, that have been issued heretofore in virtue of the several Loan Acts made and passed by the *General Assembly* of this Province.

Preamble.

Treasurer, upon Application, to take up any Note, above £10. and give Receipts for the same, in Manner directed in Prov. Act, 4. Geo. 3. c. 3. 1. Sess.

W *****
 HEREAS it has been represented, That the Persons who now possess Notes for large Sums borrowed in Pursuance of the several Loan Acts, made and passed by the General Assembly of this Province, labour under great Inconveniences on Account of the Largeness of the Sums expressed in those Notes: For Remedy whereof; Be it Enacted by the Governor, Council, and Assembly, That the Treasurer of the Province be, and he is hereby impowered and directed, on Application made to him for that Purpose, to take up and receive all such large Notes for Money borrowed as aforesaid, as shall exceed the Sum of Ten Pounds, and in Lieu thereof to give Receipts in Manner as is prescribed by an Act made and passed in the Fourth Year of his Majesty's Reign, intituled *An Act to impower the Province Treasurer to borrow a Sum not exceeding a Sum of Two Thousand Nine Hundred Pounds, for paying off Bounties, Premiums and other Debts payable by the Laws of this Province.*

Such Receipts to bear Interest at the Rate of 6. perCent.

II *And be it further Enacted*, That all Receipts so issued by the Treasurer of the Province, shall, according to the Tenor thereof, bear an Interest at the Rate of Six Pounds *per Centum per Annum*, and so in Proportion for a greater or lesser Sum, *Provided*, that the Person or Persons applying for said Interest shall bring in at one and at the same Time, a Sum not less than Twelve Pounds Ten Shillings, and the Treasurer is hereby directed to give his Receipt or Receipts for any Sum or Sums, *Provided* the same be not less than Five Shillings, at the Option of the Person or Persons possessed of the large Notes herein mentioned, and to date those Receipts so given, on the Day following the Day to which the Interest due on such Notes was paid.

Large Notes to be cancelled in Presence of Persons to be appointed by the General Assembly,

III. *And be it Enacted*, That all large Notes brought into the Treasury as aforesaid, and for which Receipts shall be given in Pursuance of this Act, shall be cancelled in presence of such Persons as shall be appointed by the *General Assembly* for that Purpose.

Receipts to be entered with the Clerk of the Audits,

IV. *Provided always and be it Enacted*, That all Receipts to be issued by the Treasurer in Pursuance of this Act, shall be entered with

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with the Clerk of the Audits, before they are issued from the Treasury.

C A P. X.

An A C T to establish the Number of Representatives to be elected in the several Counties and Townships which are now established in this Province.

***** *E it Enacted by the Governor, Council, and Assembly, That*
 * B * the several Counties and Townships herein after named
 ***** shall be intituled to elect, in Manner and Form as has
 heretofore been accustomed in the County and Town of
Halifax, the Number of Persons to sit as Representatives in *General Assembly* as follows, for the County of *Halifax* Four; for the
 County of *Annapolis* Two; for the County of *Lunenburg* Two; for the
 County of *King's County* Two; for the County of *Cumberland*
 Two; for the County of *Queen's County* Two; for the County of
Sunbury Two; for the Township of *Halifax* Two; for the Town-
 ship of *Truro* One; for the Township of *Onslow* One; for the
 Township of *Annapolis* One; for the Township of *Granville* One;
 for the Township of *Lunenburg* One; for the Township of
Horton One; for the Township of *Cornwallis* One; for the Township
 of *Falmouth* One; for the Township of *Newport* One; for the
 Township of *Cumberland* One; for the Township of *Liverpool* One;
 for the Township of *Sackville* One.

Number of Repre-
sentatives establish-
ed for the several
Counties and Town-
ships.

II. *And be it also Enacted, That when the Townships of Bar-*
rington, Yarmouth, Chester, Dublin, Amherst, St. John's Wind-
for, Wilmot on the River Anna, Louisbourg and Wilmot
Town at Canso, shall consist of Fifty Families resident, and an au-
thentick Certificate thereof shall be laid before the Governor, Lieu-
tenant Governor, or Commander in Chief of the Province, each and
every of the said Townships shall be intituled to elect, in Manner
as aforesaid, One Person as a Representative in General Assembly.

Townships of Bar-
rington, &c. when
they consist of 50
Families resident,

to send one Repre-
sentative.

At

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *Twenty Eighth* Day of *May*, *Anno Domini* 1765, in the Fifth Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Third Day of *June*, 1766, in the Sixth Year of His said Majesty's Reign ; being the Second Session of the Fourth GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An A C T for the making perpetual, an Act made and passed in the Fourth Year of His Majesty's Reign, intituled *An Act for preventing Nuisances, by Hedges, Wears, and other Incumbrances, obstructing the Passage of Fish in the Rivers of this Province.*

Act 3. Geo. 3. c. 2.
made perpetual.

*** E it Enacted by the Commander in Chief, Council, and
* B * Assembly, That an Act, intituled *An Act for preventing*
*** Nuisances, by Hedges, Wears, and other Incumbrances, ob-
structing the Passage of Fish in the Rivers of this Province,
shall be, and the same is hereby made perpetual, any Proviso or
Limitation in the said Act notwithstanding.

C A P. II.

An Act in Amendment of an Act made and passed in the Thirty Third Year of His late Majesty's Reign, intituled *An Act for establishing a Public Market at the Market House in Halifax, and for regulating the same.*

34. Geo. 2. c. 6.

***** HEREAS in the Act, intituled "*An Act for establishing*
 ***** *W* ***** "a Public Market at the Market House in Halifax, and
 ***** "for regulating the same," no Provision is made in Case of
 ***** Persons arriving in Halifax from the Country (after the

Preamble.

Hours of Market are over) with small Quantities of Provision of a perishable Nature; Be it therefore Enacted by the Commander in Chief, Council, and Assembly, That from and after the Publication hereof, it shall and may be lawful for all and every Person, bringing to Halifax from the Country small Quantities of dead Butcher's Meat, Poultry and Pigs alive or dead, Roots, Greens and other Vegetables, immediately to sell and dispose thereof by Hand, except in Market Hours, to any Person or Persons not being of the Profession of a Butcher or Huckster, any Law, Usage or Custom to the contrary notwithstanding.

Persons bringing to Halifax from the Country dead Meat, &c. may immediately sell the same, except in Market Hours.

C A P. III.

An ACT for the more effectual Recovery of His Majesty's Dues in the Islands of *Cape Breton, St. John's, and Islands adjacent.*

***** HEREAS His Majesty by his Royal Proclamation, given
 ***** *W* ***** at St. James's the Seventh Day of October, One Thousand Seven
 ***** Hundred and Sixty Three, in the Third Year of His Reign,
 ***** has thought fit to annex the Islands of St. John's and Cape
 Breton or Isle Royal, with the lesser Islands adjacent thereto, to the Government of Nova Scotia: And Whereas some Doubts have arisen, whether the Laws of this Province, antecedent to the said Proclamation, are in force there; and as sundry Persons have since refused to pay His Majesty's Dues: In Order therefore to remedy the same; It is hereby declared and Enacted by the Commander in Chief, the Council, and Assembly, That by virtue of His Majesty's Royal Proclamation, the said Islands of *St. John's, Cape Breton or Isle Royal*, with the lesser Islands adjacent, were, and shall accordingly be adjudged to have been and be under the Government, Authority, and Jurisdiction of this His Majesty's Province, and that the

Preamble.

Islands of Cape Breton, &c. adjudged to be under the Government, &c. of this Province, and the Inhabitants subject to the Laws of the same.

Inhabitants thereof were and are subject to all the Laws of the same.

Collectors of Impost and Excise impowered to sue for and recover any Duties, &c. in any Court of Record.

II. *And be it further Enacted*, That the Collectors of Impost and Excise Duties, or any other Officer appointed to receive His Majesty's Dues there, shall be and are impowered to prosecute, sue for, and recover, in any of His Majesty's Courts of Record within this Province, any Duties, Customs, Excise, Rents, or Arrears of Duties, Customs, Excise or Rents, or any Debts or other Demands whatsoever, due to the Crown from Persons residing in said Territories; and such Courts in which such Causes are commenced, are hereby authorized to hear and determine the same, and to award Execution accordingly.

C A P. IV.

An Act for extending an Act made and passed in the Thirty Second Year of His late Majesty's Reign, intituled *An Act for preventing Persons leaving the Province without a Pass*.

32. Geo. 2. c. 23.

Preamble.

WHEREAS some Doubts have arisen, whether an Act made and passed in the Thirty Second Year of his late Majesty's Reign, intituled *An Act for preventing Persons leaving the Province without a Pass*, doth extend throughout this Province; Be it Enacted and Resolved by the Commander in Chief, the Council, and Assembly, That the said Act and every Clause and Article therein contained, be construed to extend and shall extend to the whole Province, and that all Passes shall be given out either by the Secretary of the Province, or by such Persons as he has or shall desire for that Purpose.

Act 32. Geo. 2.
.. 23.

extended throughout the Province.

C A P. V.

An A C T in further Addition to and Amendment of an Act made and passed in the Thirty Third Year of His late Majesty's Reign, intituled *An Act relating to the Affixe of Bread, and for ascertaining the Standard of Weights and Measures*.

32. Geo. 2. c. 21.

Preamble.

WHEREAS in the Act relating to the Affixe of Bread, and for ascertaining the Standard of Weights and Measures, the Duty of the Clerks of the Market is not sufficiently provided for or set forth, nor any Penalty affixed to their Neglect of Duty: And Whereas also great Frauds are daily practised by Bakers and Sellers of Bread:

Bread: For the Council, the Town, the said Person or during the time to perform the General, each, to the Fine shall which sum who shall

II. *And Bread, the Flour, the said B, any other, the said P, victed the, be further, tion of the*

III *Pro, hinder any, ed with, fame as in*

IV. *And once in e, whole Pro, some one c, trict, who, County, w, said Session, glected to n, ty Shillings, ship to wh*

V. *And Peace, shall, same to be a, a Copy of t*

Bread: For Remedy whereof; Be it Enacted by the Commander in Chief, Council, and Assembly, That the Clerks of the Market in the several Towns or Townships in this Province, where Bread is made and sold, shall visit the Bake Houses, and the Houses of all and every Person or Persons selling Bread, at least One Day in every Week during their Continuance in Office as such, and if they neglect to perform their Duty therein, they shall upon due Conviction at the General Sessions of the Peace, forfeit the Sum of Forty Shillings each, to be recovered on Complaint before the said Sessions; which Fine shall be One Half to the Poor of the Town or Township to which such Clerk shall belong, and the other Half to him or them who shall complain and prosecute for the same.

Clerks of the Market to visit the Bake Houses, &c. once every Week,

on Penalty of 40s.

II. *And be it further Enacted, That every Baker or Seller of Bread, shall make his Bread, commonly called white Bread, of the Flour of Wheat only, and if he shall make use of, or mix with the said Bread, the Flour or Meal of any other kind of Grain, or any other Ingredient whatever, or shall make use of, or mix, in the said Bread, any decayed or damaged Flour, and be duly convicted thereof, he shall pay a Fine not exceeding Ten Pounds, and be further Corporally punished as in Cases of Fraud, at the Discretion of the Court before which he shall be convicted.*

Bakers to make white Bread of the Flour of Wheat only,

and not of damaged Flour, on Penalty of £.10.

III *Provided always, That nothing in this Act shall extend to hinder any Baker or other Person from making brown Bread, mixed with Rye or Indian Meal that is not damaged, and sell the same as such.*

Brown Bread may be mixed with Rye or Indian Meal.

IV. *And it is hereby also Enacted, That a Report shall be made once in every Month by the said Clerks of the Market, of their whole Proceedings in virtue of this or the aforecited Act, to some one of His Majesty's Justices of the Peace within their District, who shall certify at the General Sessions of the Peace for the County, whether such Reports have been regularly made; and the said Sessions shall proceed to fine all such Clerks who have neglected to make Report as aforesaid, in any Sum not exceeding Forty Shillings each, for the Use of the Poor of the Town or Township to which the said Clerks shall belong.*

Clerks of the Market to report their Proceedings once every Month to a Justice of the Peace.

on Penalty of 40s.

V. *And be it further Enacted, That the General Sessions of the Peace, shall Quarterly make an Assize of Bread, and cause the same to be affixed up at the Market Place Weekly; and also give a Copy of the same to the several Clerks of the Market.*

General Sessions of the Peace to make an Assize of Bread every Quarter.

C A P. VI.

An ACT against Foretallers and Regrators.

*** *E it Enacted by the Commander in Chief, Council, and Assembly,* That from and after the Publication hereof, whatsoever Person or Persons shall buy or cause to be bought, any Victuals of any Kind whatsoever, coming by Land or Water towards any Market or Fair already established, or that may hereafter be established in this Province, to be sold in the same, (except at the Distance of Ten Miles at least from the Place where such Market or Fair is to be held or kept) or shall make any Bargain, Contract, or Promise, for the having or buying the same or any Part thereof, or shall make any Motion by Word, Letter, Message, or otherwise, to any Person or Persons, for the enhancing the Price or dearer selling any Kind of Victuals or Provision for the Use of Man, coming by Land or Water towards any Market or Fair as aforesaid, shall be deemed and adjudged a Foretaller.

Who shall be deemed a Foretaller.

II. *And be it further Enacted,* That whatsoever Person or Persons shall by any Means, regrate, obtain or get into his or their Hands or Possession, in any Fair or Market, any Corn, Hay, Fish, Sheep, Lambs, Calves, Beef, Swine, Piggs, Geese, Capons, Hens, Chickens, Pidgeons, Hares, or other dead Victuals whatsoever, that shall be brought to any Fair or Market whatsoever within this Province, to be sold, and do sell the same again in any Fair or Market holden or kept in the same Place, within One Month after purchasing or receiving the same, shall be accepted, reputed, and taken for a Regrator or Regrators.

Who shall be deemed a Regrator.

Persons guilty of Foretalling or Regrating to be fined not exceeding £.10.

III. *And be it also further Enacted,* That any Person or Persons who shall be guilty of foretalling or regrating, contrary to the Intent and Meaning of this Act, and shall be duly convicted in any of His Majesty's Courts of *General Sessions of the Peace* for the County where the Offence is committed, shall be fined at the Discretion of said Court, in any Sum not exceeding Ten Pounds, and for Non Payment of his or their Fine, to suffer Imprisonment at the Discretion of the Court, not exceeding Two Months for each and every Offence; and that One Moiety of the said Fine and Forfeiture, be for the Use of the Poor of the Town where the Offence has been committed, and the other Moiety to him or them who shall sue for the same.

or to suffer Two Months Imprisonment.

C A P. VII.

An A C T concerning Schools and Schoolmasters.

Be it Enacted by the Commander in Chief, Council, and Assembly, That no Person hereafter shall set up or keep a Grammar School within this Province, till he shall have first been examined by the Minister of such Town wherein he proposes to keep such Grammar School, as to the Qualifications for the Instruction of Children in such Schools; and where no Minister shall be settled, such Examination shall be made by two Justices of the Peace for the County, together with a Certificate from at least Six of the Inhabitants of such Town, of the Morals and good Conduct of such Schoolmaster, which shall be transmitted to the Governor, Lieutenant Governor, or Commander in Chief for the Time being, for obtaining a Licence as by His Majesty's Royal Instruction is directed; and that no Person shall set up or keep a School for the Instruction of Youth in Reading, Writing, or Arithmetic, within the Township of *Halifax*, without such Examination, Certificate and Licence, or in any other Manner than is before directed; and every such Schoolmaster who shall set up or keep a School contrary to this Act shall, for every Offence, forfeit the Sum of Three Pounds, upon Conviction before Two Justices of the Peace of the County where such Person shall offend, to be levied by Warrant of Distress, and applied for the Use of the School of the Town where such Offence shall be committed.

II. *Provided,* That no Person shall presume to enter upon the said Office of Schoolmaster, until he shall have taken the Oaths appointed to be taken instead of the Oaths of Allegiance and Supremacy, and subscribed the Declaration openly in some one of His Majesty's Courts, or as shall be directed by the Governor, Lieutenant Governor, or Commander in Chief for the Time being. And if any Popish Recusant, Papist or Person professing the Popish Religion, shall be so presumptuous as to set up any School within this Province, and be detected therein, such Offender shall for every such Offence suffer Three Months Imprisonment without Bail or Mainprize, and shall pay a Fine to the King of Ten Pounds; and if any One shall refuse to take the said Oaths and subscribe the Declaration, he shall be deemed and taken to be a Popish Recusant for the Purposes so before mentioned.

III. *And Whereas His Majesty has been pleased to order that Four Hundred Acres of Land in each Township, shall be granted to and for the Use and Support of Schools, Be it Enacted,* That the said Quantities of Lands shall be vested in Trustees for the said Purpose, and such

Eng. Stat. 1. Jac. 1. c. 4. Sect. 9.
No Person to set up a School until he shall be examined by the Minister, &c. of the Town, as to his Qualifications for the Instruction of Children, to be certified to the Governor, &c. in order for his obtaining a Licence.

Any Person setting up a School without Licence, to forfeit £3. for every Offence.

Eng. Stat. 11 & 12. Will. 3. c. 4.
Schoolmasters to take the Oaths.

Eng. Stat. 13. Will. 3. c. 6.
Brit. Stat. 1. Geo. 1. c. 13. Sect. 1.
Any Popish Recusant who shall set up a School, shall forfeit £10. and suffer three Months Imprisonment.

400 Acres of Land in each Township to be vested in Trustees for the use of Schools.

1. & 2. Geo. 1. c. 1. Sect. 1. Will. 3. c. 4. Sect. 1.

Trustees shall be and are hereby enabled to sue and defend for and on behalf of such Schools, and to improve all such Lands as shall be most for the Advantage and Benefit thereof.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *Twenty Eighth* Day of *May*, *Anno Domini* 1765, in the Fifth Year of the Reign of Our Sovereign Lord *GEORGE* the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the *Twenty Third* Day of *October*, 1766, in the Sixth Year of His said Majesty's Reign; being the Third Session of the Fourth GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT to prevent the Cutting or Breaking down the Bank of any River, Seabank, or Dykes.

Preamble.

***** *HEREAS* there are large Tracts of Marsh Lands within this Province dyked in, great Part of which are, at this Time, under actual Improvement, from which great Advantages must arise; and as the dyking and draining those Lands are attended with a very great Expence, which Expence and Advantages may be lost, to the Ruin of many industrious Persons, by wicked and evil minded Persons cutting or destroying said Dykes, or the Piles or Pickets which are drove into the said Marshes, their Banks or Dykes; For Remedy whereof, Be it Enacted by the Lieutenant Governor, Council, and Assembly, That if any Person or Persons, from and after the Publication of this Act, shall unlawfully and maliciously break down, or cut down the Bank or Banks of any River, or any Seabank or Dykes, whereby any Lands shall be overflowed or damaged, every Person so offending,

Brit. Stat. 6. Geo. 2. c. 37. Sect. 5. & 1. Geo. 2. c. 42. Sect. 3.
Unlawfully breaking Down the Bank of any River, &c.

Felony without Clergy.

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offending, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in Cases of Felony, without Benefit of Clergy.

II. *And be it further Enacted*, That if any Person or Persons shall, at any Time or Times hereafter, unlawfully cut off, draw up or remove and carry away, any Piles or other Materials which are, or at any Time hereafter shall be driven into the Ground, and used for the securing any Marsh Lands or Sea Walls, Banks, or Dykes, in order to prevent the Lands lying within the same from being overflowed and damaged, it shall and may be lawful to and for any Two or more of His Majesty's Justices of the Peace, residing near the Place where the said Offence or Offences shall be committed, and such Justices are hereby respectively authorized and required, upon Complaint or Information upon Oath of such Offence, to summon the Party or Parties so complained of, or to issue their Warrant or Warrants to apprehend and bring before them, the Person or Persons so accused, complained of, or suspected, and upon his, her, or their Appearance, or neglect to appear, to proceed to examine the Matter of Fact with which he, she, or they are charged, and upon due Proof thereof made, either by Confession of the Party or Parties so accused, or upon the Oath or Oaths of One or more credible Witness or Witnesses, to determine the same, and to convict the Offender or Offenders; and every Person offending herein, and being thereof convicted as aforesaid, shall forfeit and pay the Sum of Twenty Pounds; one Moiety thereof to the Informer, and the other Moiety to the Overseers of, and for the Use of, the Poor of the Township or Place wherein such Offence shall be committed; the same to be levied by Distress and Sale of the Offender's Goods and Chattels, together with the Charges of such Distress and Sale, rendering the Overplus (if any be) to the Owner or Owners thereof; and for Want of sufficient Distress, the said Justices are hereby required to commit the Person or Persons convicted as aforesaid, to the House of Correction or Common Gaol of the County, Town or Place, where the Offence shall be committed, there to remain and be kept at hard Labour for the Space of Six Months.

Any Person cutting off, drawing up, or removing and carrying away, any Piles or Materials used for securing any Marsh Lands, Sea Walls, &c. and convicted thereof, before two Justices of the Peace,

shall forfeit £26.

One Half to the Informer, the other Half to the Poor.

Or suffer Six Months Imprisonment at hard Labour.

C A P. II.

An A C T in Addition to and Amendment of an Act made and passed in the Second Year of His present Majesty's Reign, intituled *An Act for regulating the Exportation of Fish, and the Assize of Barrels, Staves, Hoops, Boards, and all other Kinds of Lumber; and for appointing Officers to survey the same.*

c. G. 3. c. 8.

Preamble.

***** HEREAS the Laws and Regulations made and provided, respecting the packing of Mackarel and all other Kinds of pickled Fish within this Province, do not appear to fully answer the Purposes for which they were intended; Be it Enacted by the Lieutenant Governor, Council, and Assembly, That from and after the First Day of January, which will be in the Year of our Lord One Thousand Seven Hundred and Sixty Seven, all and every Person or Persons, packing Mackarel or any other Kind of pickled Fish within this Province, for Sale or Exportation, shall brand each Cask and Barrel by him or them so packed, on the Head of such Cask or Barrel, with the initial Letter or Letters of his or their Christian Name, and his or their Surname at Length, before he or they shall ship or expose the same to Sale, and every Person or Persons, who shall presume to ship for Exportation or expose to Sale any Mackarel or other Kind of pickled Fish, before the same be branded as aforesaid, shall, on due Conviction thereof by the Oath of One credible Witness, before any one of His Majesty's Justices of the Peace, forfeit and pay the Sum of Ten Shillings for each and every Cask or Barrel so exported or exposed to Sale; one Moiety thereof to the Informer, and the other Moiety to the Overseers of, and for the Use of the Poor of the Township, Town or Place, wherein such Offence shall be committed; the same to be levied by Distress and Sale of the Offender's Goods and Chattels, together with the Charges of such Distress and Sale, rendering the Overplus (if any be) to the Owner or Owners thereof.

Persons packing
Pickled Fish for
Sale or Exportation,
to brand each Cask
with the initial Letters
of their Names
&c.

on Penalty of 10s.
for each Cask.

One Half to the In-
former, the other
Half to the Poor.

C A P. III.

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C A P. III.

An A C T for empowering the Justices of the Peace for the County of *Queen's County* to hold Courts of *Special Sessions of the Peace*, at *Yarmouth* and *Barrington* in said County, for the said Townships of *Yarmouth* and *Barrington*.

HEREAS for Want of Roads, and the Distance between the Township of *Liverpool* in the County of *Queen's County*, and the Townships of *Yarmouth* and *Barrington*, makes the Attendance of Persons resident in the said Townships of *Yarmouth* and *Barrington*, at the General Sessions of the Peace held for the said County of *Queen's County*, at *Liverpool*, very inconvenient; For Remedy whereof, Be it Enacted by the Lieutenant Governor, Council, and Assembly. That Courts of General Sessions of the Peace shall and may be held and kept within the Township of *Yarmouth* in *Queen's County*, on the First Tuesday of April, and within the Township of *Barrington* in the said County, on the First Tuesday of November, in every Year; and any Three or more of the Justices for the County of *Queen's County*, shall and may hold the said Courts; and such Courts shall have, hold, use, exercise, and enjoy, all and singular the Powers which are by Law already given and granted unto Courts of General Sessions of the Peace, so far as relates to all such Matters and Things as shall be cognizable by such Courts within the said Townships of *Yarmouth* and *Barrington*.

Preamble.

Courts of General Sessions of the Peace, may be held within the Townships of *Yarmouth* and *Barrington* every Year.

C A P. IV.

An A C T to empower the Governor, Lieutenant Governor, or Commander in Chief, to grant Warrants on the Treasury for the Sum of Three Thousand Six Hundred and Forty Eight Pounds, and Four Pence, with the Interest due thereon, the same to bear Interest, for the Payment of fundry Persons who have Demands on the Government.

HEREAS many Persons have considerable Demands on the Province, to which they may be found equally intitled with such as have already received Loan Warrants or Treasurer's Notes bearing Interest until such Sums shall be paid; and as by the present State of the Province Funds, these Demands cannot be immediately discharged; Therefore for the better securing the same, Be it Enacted by the

Preamble.

The Governor, &c. to grant Warrants, bearing Interest, to such Persons as have Demands on the Province, as allowed by the General Assembly.

Demands to be first audited and certified to be justly due, by Persons to be appointed by the Governor, &c.

The Interest to be paid annually.

Interest to be allowed on Bounty Certificates.

Lieutenant Governor, Council, and Assembly, That the Governor, Lieutenant Governor, or Commander in Chief of the Province for the Time being, be and he is hereby impowered to grant Warrants on the Treasury, bearing Interest at the Rate of Six *per Cent. per Annum*, to all such Persons as have Demands on the Province as set forth and allowed by the General Assembly this present Session; and to all such Persons as have Demands on the Province for Bounties and Premiums payable by the Laws of this Province. *Provided*, That the Accounts and Vouchers of all such Debts or Demands shall be first regularly audited and certified to be justly due, by such Persons as the Governor, Lieutenant Governor, or Commander in Chief for the Time being, shall authorize and appoint for that Purpose.

II. *And be it Enacted*, That the Treasurer of the Province is hereby authorized and directed to pay off the Interest on all such Warrants as the same becomes annually due, out of such Monies as may then be in his Hands, arising from the Duties of Impost and Excise.

III. *And be it also Enacted*, That the Treasurer shall state and allow Interest at the Rate aforesaid on all Bounty and Premium Certificates, in the Manner prescribed by the Laws of this Province.

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At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Twenty Eighth Day of *May*, *Anno Domini* 1765, in the Fifth Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the First Day of *July*, 1767, in the Seventh Year of His said Majesty's Reign; being the Fourth Session of the Fourth GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT to prevent Treipasses upon Crown Lands.

HEREAS sundry evil minded Persons have presumed, not only to take possession of ungranted Lands in this Province, but also, without Leave from Government, to encourage ignorant Persons to settle on such Lands, without obtaining any Grant thereof; which Practices are highly offensive to the Honor and Dignity of the Crown, Be it therefore Enacted by the Governor, Council and Assembly, That any Persons convicted in manner hereafter mentioned, either of possessing themselves of any ungranted Lands in this Province, or that shall presume to place thereon any Inhabitants, or occupy such Lands in any manner whatever, without Leave in Writing first obtained for that Purpose, from the Governor, Lieutenant Governor, or Commander in Chief for the Time being, may and shall be prosecuted for the same, by Bill, Complaint, or Information, in any of His Majesty's Courts of Record in this Province, and upon due Conviction thereof by the Oath of one credible Witness, shall be adjudged to forfeit and pay the Sum of Fifty Pounds.

Preamble.

Any Persons possessing themselves of, or occupying &c. any ungranted Lands, without leave in Writing from the Governor &c. shall forfeit £50.

At

CAP. II.

An Act in further Addition to an Act, intituled *An Act for regulating Petit Juries and declaring the Qualification of Jurors*†.

† 33. Geo. 2. c. 9.

Preamble.

Qualification of Jurors in the Islands of Cape Breton, & St. John's.

† 33. Geo. 2. c. 5.

* 33. Geo. 2. c. 9.

*** HEREAS the Number of Freeholders in several Counties within this Province, are insufficient for Grand and Petit Juries, whereby Trials are often continued over, and great Delay of Justice thereby happens; Be it therefore Enacted by the Governor, Council, and Assembly, That any Person residing in the Islands of Cape Breton, or St. John's, in this Province, not being a Freeholder, but that shall have Personal Estate to the Value of Ten Pounds and upwards, shall be obliged to serve on Juries, being duly summoned for that Purpose; and in Case of Neglect shall incur and pay the same Fines and Penalties which, in the like Case, are imposed by an Act made and passed in the Thirty Third Year of His late Majesty's Reign, intituled *An Act for regulating Petit Juries and declaring the Qualification of Jurors*†; and also by an Act made and passed in the Thirty Third Year of His late Majesty's Reign*, intituled *An Act in Addition to an Act, intituled "An Act for regulating Petit Juries and declaring the Qualification of Jurors:"* And that all Persons so summoned by the Provost Marshal or his Deputy, shall attend and serve as Jurors, unless they shall make it appear by Oath before the Court, that they are not possessed of Personal Estate to the Value of Ten Pounds.

CAP. III.

An Act in Addition to an Act made in the Fourth Year of His present Majesty's Reign†, intituled *An Act to enable the Inhabitants of the several Townships within this Province to maintain their Poor*.

† 3. Geo. 3. c. 7.

* 3. Geo. 3. c. 7.

Preamble.

*** HEREAS it is provided in and by an Act made in the Fourth Year of His present Majesty's Reign*, intituled *An Act to enable the Inhabitants of the several Townships within this Province to maintain their Poor*, "That it shall and may be lawful for the Freeholders of any Township within this Province, where there are Fifty or more Families Freeholders resident, to meet on the First Monday in January Annually, and to vote such a Sum of Money as they shall judge necessary for the current Year, to support and maintain their Poor;" And Whereas there are some Townships who do not consist of Fifty Families Freeholders resident, which Townships labour under great Inconveniency for want of a Power to make Provision for their Poor; For Remedy

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Remedy whereof, Be it Enacted by the Governor, Council, and Assembly, That it shall and may be lawful for the Freeholders of all such Townships, tho' they do not consist of Fifty Families Freeholders resident, to meet on the First Monday of January Annually, and there to proceed in Manner and Form as is prescribed by the afore recited Act, in the making Provision for their Poor; and that the said Freeholders shall be intitled to all the other Powers and Prescriptions contained in the said Act, any Law, Usage, or Custom to the contrary in any wise notwithstanding.

The Freeholders of any Township may meet annually and make Provision for their Poor, altho' they do not consist of Fifty Families resident therein.

C A P. IV.

An ACT to explain and amend the several Acts of this Province, relating to the *Affize of Bread*, and for ascertaining the *Standard of Weights and Measures*.

***** HEREAS Doubts have arisen respecting the Distribution of the several Fines and Forfeitures incurred on the Acts made and passed by the General Assembly of this Province, relating to the Affize of Bread and for ascertaining the Standard of Weights and Measures, Be it therefore Enacted by the Governor, Council, and Assembly, That for the future all Fines and Forfeitures, incurred on the said Acts, shall be applied One Half to the Clerks of the Market or Informer, and the other Half to the Poor of the Town where the Offence shall be committed, any Law, Usage, or Custom to the contrary notwithstanding.

Preamble.

All Fines and Forfeitures to be one Half to the Informer, and the other Half to the Use of the Poor.

C A P. V.

An ACT for regulating the Times and Places for holding the several Courts of Justice therein named.

***** Be it Enacted by the Governor, Council, and Assembly, That the General Quarter Sessions of the Peace, and the Inferior Court of Common Pleas, for the County of Annapolis, shall be held in the Town of Annapolis, on the Third Tuesday of January, and on the Second Tuesday of September; For the County of Lunenburg, in the Town of Lunenburg on the Second Tuesday of April, and on the Second Tuesday of October; For Queen's County, in the Town of Liverpool, on the First Tuesday of February, and on the Third Tuesday of September; For King's County, in the Town of Horton, on the last Tuesday of May, and on the First Tuesday of October; And for the County of Cumberland, in the Town of Cumberland, on the First Tuesday of June, and on the Second Tuesday of October; which Courts shall be held at the said Places respectively, on the said Days in every Year.

Times and Places ascertained for holding the Courts for the Counties of Annapolis,

Lunenburg,

Queen's County,

King's County,

Cumberland,

II. And

At what Times the
Supream Court shall
be held.

II. *And Whereas the Time for holding the Supream Court on the last Tuesday of April, has been found inconvenient, many of the Suitors, their Witnesses, and Jurors, being at that Time engaged in the Fishery; Be it therefore Enacted, That the Supream Court shall be Annually held on the First Tuesday of April, and on the last Tuesday of October, in the Town of Halifax.*

C A P. VI.

An A C T to impower the Governor, Lieutenant Governor, or Commander in Chief, to grant Warrants on the Treasury, for a Sum not exceeding One Thousand Six Hundred pounds, bearing interest, for securing the Payment of the Expences of Government.

Preamble.

WHEREAS the Revenues of the Government for the Year past, have been partly applied for Payment of sundry old Accounts, to the Amount of Two Thousand Two Hundred and Twenty Five Pounds, Thirteen Shillings and Eight Pence, which has created an exceeding of the Expence of Government, whereby the Treasurer of the Province has been rendered unable to pay the Interest of the Loan Warrants, and Treasurer's Receipts, as the same became due, which have caused a Depreciation of the Government's Securities, to the great Prejudice of the Possessors: *And Whereas by impowering His Excellency the Governor, the Lieutenant Governor, or Commander in Chief for the Time being, to grant Warrants bearing Interest, for securing the Payment of the Expences of Government for One Year, all the Monies arising from the Revenues may be immediately applied for paying off all the Interest that now is or may become due, Be it therefore Enacted, by the Governor, Council and Assembly, That the Governor, Lieutenant Governor, or Commander in Chief for the Time being, be and he is hereby impowered to grant Warrants on the Treasury, for a Sum not exceeding One Thousand Six Hundred Pounds, bearing Interest at the Rate of Six per Cent. per Annum, for securing the Payment of the Expences of Government to the Thirty First Day of December next, agreeable to the Estimate for the annual Expence of Government, formed by his Excellency the Governor, and agreed to by the General Assembly.*

The Governor, &c.
impowered to grant
Warrants on the
Treasury for
£1600. bearing In-
terest at 6. per Cent.
per Ann.

to pay the Expences
of Government to
31st December,
1767.

The Interest to be
paid Annually.

II. *And be it further Enacted, That the Interest of all Warrants to be granted by virtue of this Act, shall commence at the Date of such respective Warrants, and shall be annually paid by the Treasurer as the same becomes due, out of such Monies as he shall have in his Hands, arising from the Publick Revenues of the Province.*

C A P. VII

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C A P. VII.

An ACT in further Amendment of an Act, made in the Thirty Third Year of His late Majesty's Reign, intituled *An Act for establishing a Public Market at the Market House in Halifax and for regulating the same.*

34. Geo. 2. c. 6.

WHEREAS the Liberty given to the People coming from the Country, to sell several Articles brought by them immediately by Hand, as is provided for by an Act intituled, An Act in Amendment of an Act, made in the Thirty Third Year of His late Majesty's Reign, intituled "An Act for the Establishing a Public Market at the Market House in Halifax, and for regulating the same," has been found beneficial both to such People, and to the Inhabitants of this Town; And whereas it is apprehended that if the Country People had further Liberty given them, to sell such their Provisions by Hand, at any Time, as well within Market Hours as without, it would still be more beneficial; Be it Enacted, by the Governor, Council and Assembly, That any Person coming from the Country with any Quantities of Dead Meat, Poultry and Pigs alive or dead, Roots, Greens, and other Vegetables, shall have free Liberty to sell and dispose of the same by Hand, in any of the Streets or Lanes of the Town of Halifax, to any of the Inhabitants of said Town (not being Butchers or Hucksters) at any Time, whether within Market Hours or without, and that such Persons shall have free Liberty to carry the same to the Market House, to be sold and disposed of there, without being put to any Expence for Stallage; any Law, Usage, or Custom to the contrary notwithstanding.

Preamble.

Persons coming from the Country with dead Meat, &c. may sell the same at any Time to any Person (not being a Butcher or Huckster) and may sell the same in the Market House without any Expence for Stallage.

C A P. VIII.

An Act in further Addition to an Act made in the Thirty Second Year of His late Majesty's Reign, intituled *An Act for preventing Trespasses.*

32. Geo. 2. c. 14.

WHEREAS many evil minded Persons have broke open Inclosures by pulling down Stone Walls, carrying off and destroying Fences, Gates, Bars, and other Materials for Fencing, to the great Prejudice of the Owners of such Inclosures; In order therefore to prevent and deter such Offenders, Be it Enacted by the Governor, Council and Assembly, That if any Person (not being the Proprietor, or having legal Authority) shall presume to throw down or remove any Fence of Stone Wall, or any Part thereof, inclosing any

Preamble:

Any Person who shall throw down or remove any Fence of Stone Wall, or carry away any Rails, &c.

(on Conviction thereof before any Court of Record) shall forfeit £10. besides the Damages, or if unable to pay, shall suffer two Months Imprisonment or be whipt.

Owners of Horses breaking into Inclosures on the Peninsula of *Halifax*, shall forfeit Ten Shillings for each Horse, besides the Damages,

to be recovered before any or Justice of the Peace.

Where no Owner shall appear, such Horse shall be sold to pay Costs, &c. the Surplus to be restored to the Owner, when he shall appear.

Parcel of Ground within this Province, or shall carry away any Rails, Posts, Gates, Bars, Boards, or any other Materials, whereof Fences are made, or shall level any Ditches, or cut down any Hedges, such Person shall, upon Conviction thereof before the *General Sessions of the Peace*, or before any Court of Record within this Province (over and above the Damages given to the Party injured) forfeit and pay a Sum not exceeding Ten Pounds; one Half to His Majesty, and the other Half to the Prosecutor; and if such Person shall be unable to pay the same, he shall be committed to the House of Correction, there to be kept to hard Labour for the Space of two Months, or be whipped at the Discretion of the Court.

II. *And Whereas Horses, by being suffered to go at large on the Peninsula of Halifax, frequently break into Inclosures, and do great Damages, Be it Enacted*, That all Horses that shall break into any Inclosures, within the Peninsula of *Halifax*, lawfully fenced, or that shall be found trespassing therein; the Owner of all such Horse or Horses shall forfeit and pay the Sum of Ten Shillings for each and every such Horse, over and above the Damages; which Forfeiture shall be recovered, on Proof thereof, before any one of His Majesty's Justices of the Peace for the County of *Halifax*; one Half thereof to the Prosecutor, and the other Half to the Use of the Poor of the Town of *Halifax*; and where no Owner shall appear to pay the Costs, Damages, and Fine, it shall and may be lawful for the Justice of the Peace, who has heard and determined the same, after public Advertisement given for Ten Days, to sell the said Horse; and the Surplusage, over and above the Payment of the Costs, Damages, and Fine, to be restored to the Owner when he appears.

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At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Twenty Eighth Day of *May*, *Anno Domini* 1765, in the Fifth Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Seventeenth Day of *October*, 1767, in the Seventh Year of His said Majesty's Reign; being the Fifth Session of the Fourth GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An A C T in further Addition to an Act made in the Thirty Second Year of His late Majesty's Reign, intituled *An Act for the Establishment of Religious Public Worship in this Province, and for suppressing of Popery.*

32. Geo. 2. c. 5.

W H E R E A S by an Act made in the Thirty Third Year of His late Majesty's Reign, intituled An Act in Addition to an Act, intituled "An Act for the Establishment of Religious Public Worship in this Province, and for suppressing of Popery," no Provision is made for authorising the Assessment of the Inhabitants of St. PAUL's in Halifax, for the Payment of such Sums as may be voted by the Parishioners for any extraordinary Repairs to the Church of St. PAUL's in the Town of Halifax, or for the Use and Maintenance thereof, or for the Salaries of an Organist, a Parish Clerk and Sexton, or for an Allowance to the Clerk of the Vestry, Be it therefore Enacted, by the Lieutenant Governor, Council, and Assembly, That the Church Wardens, Vestry, and Parishioners of the Parish of St. Paul's, shall meet Quarterly, that is to say, on the First Mondays in December, March, June, and September, Yearly, and

Preamble

33. Geo. 2. c. 3.

The Church Wardens, &c. of St. Paul's, to meet Quarterly, and vote Money for Repairs, &c. of the Church,

(nn) *Burn's Eccles. Law* 2. Vol. Pt. 477.

At every Parish Meeting, the Minister whether Rector or Vicar presides, *Ibid.*

(b) 1. *Bac. Abr.* 373. *Burn's Eccles. Law* 1. Vol. 268, 269.

an l for the Arrears of Salaries of the Organist, &c.

such Vote to be binding on all the Parishioners, not exempted by Law, (c) *Burn's Eccles. Law* 2. Vol. 477. and to be assessed by the Church Wardens and Vestry, and collected by the Church Wardens.

The Assessors to be assessed by three Parishioners to be appointed at the Meeting, (d) *Burn's Eccles. Law* 1. Vol. 273.

Appeal allowed to Persons aggrieved.

This and the former Acts to extend to all Churches which shall be erected hereafter.

and when so met may, by a Vote of the Majority. (a) of such Parishioners then present, as pay Scot and Lot (a) by being assessed for paying any Contributions for and towards the Support of the Church of England, allot and order such Sums of Money as they may judge necessary (b) for and on Account of Repairs, and for the usual Goods, Stock, Furniture, Ornaments, and Bells of the Church, and for Arrears of Salary and other Allowances to the Organist, Clerk and Sexton of the same, and to the Clerk of the Vestry, and for all other necessary future Church Repairs, Goods, and Ornaments, as other Rates are directed to be levied, collected and received, by the afore recited Act or Acts; and likewise for half yearly Assessments and Payments of the future growing Salaries to the Organist, Parish Clerk and Sexton, and Clerk of the Vestry; which Vote or Votes shall be binding on all the Parishioners belonging to the said Parish Church of *St. Paul's*, and others dwelling in the said Parish, not exempted by Law from paying towards the Support of the Church of England (c); and shall be assessed by the Church Wardens and Vestry in just and equal Proportions on every Parishioner, according to their several Abilities, and shall be collected, levied, and received, by the Church Wardens as prescribed by the said Act.

II. *Provided always, and be it Enacted*, That the said Assessors shall not tax themselves (d), but they shall be assessed by at least three of the other Parishioners, who shall be named for that Purpose by the Parish at their Meeting for voting the Sums to be assessed.

III. *Provided also*, That if any Person shall think himself over rated or otherwise aggrieved, he may appeal for Redress in Manner prescribed by the afore recited Act, in Case the said Rate shall exceed the Sum of Five Shillings, or if any Sum be unduly levied upon the said Parishioners.

IV. *And be it further Enacted*, That when, and so often, as any other Church or Churches shall be erected within the said Town of *Halifax*, or any other Town or Towns of the Province, and that Church Wardens and Vestries shall be appointed in the same, that this Act and the said former Acts, and every Clause, Direction, Authority, and Power, in the same contained, shall extend and be in Force for all such Church or Churches, as may so hereafter be erected and established, in the same Manner as if the said Church or Churches had been expressly named in this and the said Acts as aforesaid.

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CAP. II.

An ACT for Partition of Lands in Coparcenary, Jointenancy, and Tenancy in Common, and thereby for the more effectual collecting His Majesty's Quit Rents in the Colony of *Nova Scotia*.

***** HEREAS for the more speedy Settlement of the Province,
 ***** it became necessary to erect Townships in divers Parts of the
 ***** same, and for inducing Persons to remove into the Province
 and become Settlers and Inhabitants of the said Townships, it
 was found requisite by Grants to the several Petitioners to convey, previous
 to their Arrival in the Province, certain Shares or Rights in the re-
 spective Townships, and inasmuch as the said Rights could not, without
 greatly retarding the Progress of the Settlements, be surveyed and set
 out to each respective Grantee by Metes and Bounds in Severalty, it was
 judged expedient to convey the Lands in the said Townships to the Per-
 sons named in the respective Patents as Jointenants or Tenants in Com-
 mon. And Whereas many of the Grantees have never arrived, or by
 themselves or others taken any actual Possession of their Shares in the
 said Townships, and yet by the Terms and Periods in the said Patents
 they are intitled and will long remain intitled to the said Shares, by Rea-
 son whereof numerous Inhabitants in the respective Townships having un-
 divided Parts are greatly oppressed and prejudiced, who on account of
 such Absentees cannot proceed to divide their Rights by private Deeds
 of Partition, nor can any Summons be legally served as against such Ab-
 sentees upon Writs of Partition, and for want of dividing the said Lands,
 a considerable Part thereof is wasted and destroyed by frequent Trespasses
 and otherwise, or lie uncultivated and unmanured, so that the Profits of
 the same are totally or in a great Measure lost, to the Injury of His Ma-
 jesty's Rights in the Quit Rents respectively reserved, as to the Means of
 having the same, and tending to the Vexation of the Inhabitants, by be-
 ing liable to Suits for an Account of Profits demandable by one Tenant in
 Common against another, For Remedy whereof, Be it Enacted by
 the Lieutenant Governor, the Council, and Assembly, That upon the
 Petition of any one or more of the Inhabitants in each Town-
 ship, to the Supreme Court, praying a Division of the Lands to
 the Proprietors in Severalty, according to their Shares and
 Rights, it shall and may be lawful for the said Court to award
 a Writ of Partition in the usual Form (a), to the Provost Mar-
 shal, to be executed by him or his Deputy, in the Presence of two
 Justices of the Peace, in Manner following, That is to say, that
 in assigning the Shares in Severalty, in virtue of the said Writ of
 Partition, the Lands actually occupied and improved shall be set
 off and assigned to all such Proprietors respectively, who have so
 occupied and improved the same; and that in assigning the Rights
 to Lands unimproved, after Division thereof into Shares according

Preamble.

Eng. Stat. 8. & 9.
 Will. 3. c. 31. made
 Perpetual by 3. & 4.
 Ann. c. 18. Sect. 2.
 Upon Petition of
 any Inhabitant of
 any Township,
 the Supreme Court
 may award a Writ
 of Partition,
 (a) Regist. Decree,
 Judicial. 80. a
 F. N. B. 137. R.
 to be executed by
 the Provost Mar-
 shal, in Presence of
 two Justices,
 Lands actually im-
 proved by any Pro-
 prietors, shall be
 set off to them.

(b) *Lit. Sect. 256.*
Co. Lit. 169. a.

Shares to be ballotted for, and the Numbers drawn expressed in the Inquisition, and confirmed by the Court.

(c) *Return of the Sheriff & Jurors by the Writs of the Writ must be under their Seals.*
Co. Lit. 158. b.
 Provoost Marshal to give 40 Days Notice to the Occupiers of the Lands, &c.

Persons duly notified, and neglecting to appear, shall be defaulted,

and final Judgment for Partition given against the Persons present; and also against the Persons defaulted, unless they shew a probable Matter in Bar, within 15 Days.

(d) *Co. Lit. 169. a.*
 In Case of Inequality, the Court may order a new Partition, which shall bind all Persons, except Infants, &c.

(e) *Lit. Sect. 258.*

Co. Lit. 171. c.

(f) *Lit. Sect. 256.*

257. Co. Lit. 170.

b. 171. a.

who may have a new Partition, upon shewing a probable Matter in Bar.

The like Relief for
 children.

to the Number of Grantees in each Township, each Number shall be written on separate Papers and rolled up and placed in a Box (b), from whence each Grantee present shall, in the Order wherein he is named in the Patent of Grant to the Township, draw out one of the said Papers, in the Presence of the Jury attending the Provoost Marshal or Deputy Provoost Marshal; and the Number so drawn shall be expressed in the Inquisition by the Jury, and be accordingly assigned by the Provoost Marshal or Deputy Provoost Marshal and the Justices, in their Return of the Writ of Partition (c); which shall be confirmed by the Judgment of the said Court: And the said Provoost Marshal or his Deputy are hereby required to give due Notice to the Tenants or Occupiers of the Lands, or if they cannot be found, to the Wife, Son, or Daughter, being of the Age of Twenty One Years and upwards, of the Tenant or Tenants, or to the Tenant in actual Possession by virtue of any Estate of Freehold, or for Term of Years, or uncertain Interest, or at Will, of the Lands, Tenements, or Hereditaments, whereof the Partition is demanded, Forty Days before the said Provoost Marshal shall proceed to execute the said Writ of Partition; and if it shall appear to the said Court, upon Return of the said Writ of Partition, that any of the Persons notified neglected to appear, Judgment shall be given by Default as against them, and a final Judgment for Partition shall be given against such Persons as were present at the Time of executing the Writ; and if the Persons against whom the Judgment shall be so given by Default shall not, within Fifteen Days after serving them with Notice of the said Judgment, apply themselves to the said Court by Motion, and shew a good and probable Matter in Bar of the said Partition, the said Judgment by Default shall be confirmed, and final Judgment entered (d). *Provided nevertheless*, that if the Tenants or Persons concerned shall shew to the Court any Inequality in the Partition, the Court may award a new Partition to be made in Presence of all Parties concerned, if they will appear, notwithstanding the Return and Filing upon Record the former; which said second Partition returned and filed shall be good and firm for ever against all Persons, except Infants (e), *Penes Covert* (f), Persons of *Non sane* Memory, who shall, within One Year after the respective Disabilities shall be determined, be intitled to apply to the said Court, and shew a good and probable Matter in Bar of the said Partition, in which Case the said Judgment shall be set aside and a new Writ of Partition shall be awarded, and executed in Presence of all Parties concerned, which Partition shall be final and conclusive against all Persons whatsoever. *Provided also*, That all Persons absent may, within One Year after such Judgment of Partition, to be publickly notified in the *Nova Scotia Gazette*, or any other publick News Paper, three Weeks successively, by their Agents or Attornies apply to the said Court, and alledge any good and probable Matter against the said Partition, and such new Partition and Judgment

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ment shall be had as aforesaid; which shall conclude such absent Persons, and all other Persons, claiming and deriving under the Grants so passed, by His Majesty's Government, for the Settlement and Improvement of the Province. *Provided likewise*, that in such second Writs of Partition, no Lands that have been builded upon, ploughed, or otherwise improved *bonâ fide*, by the Proprietor intitled under the former Judgment of Partition, shall be devested out of such Proprietor, but that the Equality of Partition shall be made out of the unimproved Lands.

II. *And be it further Enacted*, That no Plea in Abatement shall be admitted or received in any Suit for Partition, nor shall the same be abated by Reason of the Death of any Tenant; and that in all Cases where the former Judgment shall, upon Appeal, be confirmed, the Person or Persons so appealing shall be awarded to pay Costs.

III. *And be it also Enacted*, That from and out of every several Share so to be allotted and assigned to each and every Proprietor, His Majesty's Quit Rents reserved and payable by every Grantee in the respective Patents named, shall be recoverable by the usual Process, and be levied out of the Profits and other extendible Goods and Chattels of such respective Share; and that this Act nor any Thing herein contained, shall extend or be construed to extend to impeach or prejudice His Majesty's Rights to the said Quit Rents, or to any Forfeitures or other Rights in virtue of the said Grants.

in the second Partition no Proprietor shall be devested of any Lands actually improved by him, but the Equality shall be made out of unimproved Lands.

No Plea in Abatement shall be admitted in Suits for Partition. The Appellee to pay Costs when the first Judgment shall be confirmed.

His Majesty's Quit Rents to be recoverable out of every Share,

and to be levied out of the profits thereof.

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At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Twenty Eighth Day of *May*, Anno Domini 1765, in the Fifth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Eighteenth Day of *June*, 1768, in the Eighth Year of His said Majesty's Reign; being the Sixth Session of the Fourth GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT for determining Differences by Arbitration.

WHEREAS References made by Rule of Court may contribute much to the Ease of the Subject, in the determining of Controversies, because the Parties become thereby obliged to submit to the Award of the Arbitrators, under the Penalty of Imprisonment for their Contempt in Case they refuse Submission; Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That it shall and may be lawful for all Merchants and Traders, and others desiring to end any Controversy, Suit, or Quarrel, Controversies, Suits, or Quarrels, for which there is no other Remedy but by Personal Action, or Suit in Equity, by Arbitration, to agree that their Submission of their Suit to the Award or Umpirage of any Persons, should be made a Rule of His Majesty's Supreme Court, or of any of His Majesty's Inferior Courts of Common Pleas within this Province, which the Parties shall choose, and to insert such their Agreement in their Submission, or the Condition of the Bond or Promise, whereby they oblige themselves respectively to submit to the Award or Umpirage of any Person or Persons; which Agreement being so made and inserted in their Submission or Promise, or Condition of their respective Bonds, shall or may, upon producing an Affidavit thereof made by the Witnesses thereunto, or any one of them, in the Court of which the same is agreed to be made a Rule, and reading and filing the said Affidavit in Court, be entered of Record

Preamble.

Eng. Stat. 9. & 10.
Will. 3. c. 15.

Merchants &c. desiring to end Controversies by Arbitration, may agree their Submission to be made a Rule of Court.

Agreement so made to be inserted in their Submission &c.

Parties to be finally
concluded by such
Arbitration,

in case of Disobe-
dience Parties sub-
ject to Penalty, &c.

unless Arbitrators
misbehaved them-
selves.

Corrupt Arbitra-
tions void, and may
be set aside.

cord in such Court, and a Rule shall thereupon be made by the said Court, that the Parties shall submit to, and finally be concluded by the Arbitration or Umpirage which shall be made concerning them by the Arbitrators or Umpire, pursuant to such Submission; and in Case of Disobedience to such Arbitration or Umpirage, the Party neglecting or refusing to perform and execute the same, or any Part thereof, shall be subject to all the Penalties of contemning a Rule of Court, when he is a Suitor or Defendant in such Court, and the Court on Motion shall issue Process accordingly, which Process shall not be stopped or delayed in its Execution, by any Order, Rule, Command, or Process, of any other Court, either of Law or Equity, unless it shall be made appear on Oath to such Court, that the Arbitrators or Umpire misbehaved themselves, and that such Award, Arbitration, or Umpirage, was procured by Corruption, or other undue Means.

II. *And be it further Enacted*, That any Arbitration or Umpirage procured by Corruption, or undue Means, shall be judged and esteemed void and of none Effect, and accordingly be set aside by any Court of Law or Equity, so as Complaint of such Corruption or undue Practice be made in the Court where the Rule is made for Submission to such Arbitration or Umpirage, before the last Day of the next Term after such Arbitration or Umpirage made and published to the Parties; any Thing in this Act contained to the contrary notwithstanding.

C A P. II.

An A C T for giving like Remedy upon Promissory Notes, as is now used upon Bills of Exchange.

Preamble.

Eng. Stat. 3. & 4.
Ann. c. 9.

IV *HEREAS* it has been held that Notes in Writing, signed by the Party who makes the same, whereby such Party promises to pay unto any other Person, or his Order, any Sum of Money therein mentioned, are not assignable or indorsible over, within the Custom of Merchants, to any other Person, and that such Person to whom the Sum of Money mentioned in such Note is payable, cannot maintain an Action, by the Custom of Merchants, against the Person who first made and signed the same; and that any Person to whom such Note should be assigned, indorsed, or made payable, could not, within the said Custom of Merchants, maintain any Action upon such Note against the Person who first drew and signed the same: Therefore to the Intent to encourage the Trade and Commerce of this Province, which will be much advanced, if such Notes shall have the same Effect as Inland Bills of Exchange, and shall be negotiated in like Manner: Be it Enacted by the Lieutenant Governor, Council, and Assembly, That all Notes in Writing, made and signed by any Person or Persons, or by the Servant or Agent of any Merchant, Trader, or other Person or Persons, who is usually intrusted by him, her, or them, to sign such Promissory Notes for him, her,

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her, or them, whereby such Person or Persons, his, her, or their Servant or Agent, as aforesaid, doth or shall promise to pay to any other Person or Persons, his, her, or their Order, or unto Bearer, any Sum of Money mentioned in such Note, shall be taken and construed to be, by virtue thereof, due and payable to any such Person or Persons, to whom the same is made payable; and also every such Note payable to any Person or Persons, his, her, or their Order, shall be assignable or indorsible over, in the same Manner as Inland Bills of Exchange are or may be, according to the Custom of Merchants; and that the Person or Persons, to whom such Sum of Money is or shall be by such Note made payable, shall and may maintain an Action for the same, in such Manner as he, she, or they might do, upon any Inland Bill of Exchange, made or drawn according to the Custom of Merchants, against the Person or Persons, who, or whose Servant or Agent, as aforesaid, signed the same; and that any Person or Persons, to whom such Note that is payable to any Person or Persons, his, her, or their Order, is indorsed or assigned, or the Money therein mentioned ordered to be paid by Indorsement thereon, shall and may maintain his, her, or their Action for such Sum of Money, either against the Person or Persons, who, or whose Servant or Agent, as aforesaid, signed such Note, or against any of the Persons that indorsed the same, in like Manner as in Cases of Inland Bills of Exchange: And in every such Action the Plaintiff or Plaintiffs shall recover his, her, or their Damages and Costs of Suit; and if such Plaintiff or Plaintiffs shall be Nonsuited, or a Verdict be given against him, her, or them, the Defendant or Defendants shall recover, his, her, or their Costs against the Plaintiff or Plaintiffs; and every such Plaintiff or Plaintiffs, Defendant or Defendants, respectively recovering, may sue out Execution for such Damages and Costs.

Promissory Notes may be assigned or indorsed, and Action maintained thereon, as on Inland Bills of Exchange.

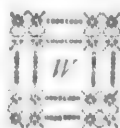
Plaintiff or Defendant may recover Costs.

II. *And be it further Enacted*, That all and every such Actions shall be commenced, sued and brought, within such Time as is appointed for commencing or suing Actions upon the Case, by the Act of this Province, made in the Thirty Second Year of his late Majesty's Reign, intituled *An Act for Limitation of Actions, and for avoiding Suits of Law*.

How Actions shall be brought.

C A P. III.

An ACT in Addition to and further Amendment of an Act made in the Thirty Second Year of his late Majesty's Reign, intituled *An Act relating to Treasons and Felonies*. 32. Geo. 2. c. 13.



HERE AS it may be doubted in what County the Crime of Murder may be tried, where the Stroke is given in one County and Death ensues in another County, or where any Persons shall be Accessaries to Murders or Felonies committed in several Counties, Therefore be it Enacted

Preamble.

Eng. Stat. 1. & 3. Ed. 6. c. 14.

The Trial of a Murderer that strikes or poisons a Man in one County which dieth thereof in another County.

Where an Appeal of Murder in the Case aforesaid shall be pursued.

Appeal against one Accessary.

Trial of an Accessary in one County to a Murder or Felony done in another County.

ted by the Lieutenant Governor, Council, and Assembly, That where any Person or Persons shall be feloniously stricken or poisoned in one County, and die of the same stroke or poisoning in another County, that then an Indictment thereof found by Jurors of the County where the Death shall happen, whether it shall be found before the Coroner upon the Sight of such dead Body, or before the Justices of the Peace, or other Justices or Commissioners which shall have Authority to enquire of such Offences, shall be as good and effectual in the Law as if the stroke or poisoning had been committed and done in the same County where the Party shall die, or where such Indictment shall be so found; any Law or Usage to the contrary notwithstanding: And that the Justices of Oyer and Terminer and Gaol Delivery, in the same County where such Indictment at any Time hereafter shall be taken, shall and may proceed upon the same in all Points, as they should or ought to do, in Case such felonious Stroke and Death thereby ensuing, or poisoning and Death thereof ensuing, had grown all in one and the same County. And that such Party to whom Appeal of Murder shall be given by the Law, may commence, take, and sue Appeal of Murder in the same County where the Party so feloniously stricken or poisoned shall die, as well against the Principal and Principals, as against every Accessary to the same Offences, in whatsoever County or Place the Accessary or Accessaries shall be guilty to the same. And further, the Justices before whom any such Appeal shall be commenced, sued, and taken, within the Year and Day after such Murder and Manslaughter committed and done, shall proceed against all and every such Accessary and Accessaries, in the same County where such Appeal shall be so taken, as well concerning the Trial by the Jurors, or Twelve Men of such County where such Appeal or Appeals shall be hereafter taken upon the Plea of Not Guilty pleaded by such Offender or Offenders, as otherwise.

II. And be it further Enabled, That where any Murder or Felony hereafter shall be committed and done in one County, and another Person or more shall be Accessary or Accessaries in any Manner of wise to any such Murder or Felony in any other County, that then an Indictment found or taken against such Accessary and Accessaries upon the Circumstance of such Matter before Justices of Oyer and Terminer, and Gaol Delivery, appointed to enquire of Felonies in the County where such Offences of Accessary or Accessaries in any Manner of wise shall be committed or done, shall be as good and effectual in the Law, as if the said principal Offence had been committed or done within the same County where the same Indictment against such Accessary shall be found. And that every such Accessary and other Offenders above expressed, shall answer upon their Arraignments, and receive such Trial, Judgment, Order, and Execution, and suffer such Forfeitures, Pains and Penalties, as is used in other Cases of Felony; any Law, or Custom to the contrary heretofore used in any wise notwithstanding.

III. And

III. *And Whereas by the Act of this Province made in the Thirty Second Year of His late Majesty's Reign, intituled An Act relating to Treasons and Felonies, no Declaration is made respecting the Crime of Petit Treason: Be it therefore Enacted*, That if any Woman with Malice prepense, shall kill or procure any other Person or Persons to kill her Husband; or if any Servant with Malice prepense, shall kill or procure any other Person or Persons to kill his or her Master or Mistress; the Persons so offending, their Counsellors, Aiders, and Abettors, privy to the Offence, shall upon due Conviction, be adjudged guilty of Petit Treason, and suffer Death without Benefit of Clergy accordingly.

Eng. Stat. 25 Ed. 3.
Stat. 5. c. 2.

Petit Treason.

IV. *And Whereas by the said Act of the Province, relating to Treasons and Felonies, it is among other Things Enacted*, "That if any Person with Malice prepense, shall kill or procure any other Persons to kill, or shall on Purpose and of Malice forethought, and by laying in Wait, unlawfully cut out or disable the Tongue, put out an Eye, slit the Nose, cut off a Nose or Lip, or cut off or disable any Limb or Member, of any Person, with Intention to kill or to maim or disfigure any such Person; the Persons so offending, their Counsellors, Aiders and Abettors, privy to the Offence, shall be Felons without Benefit of Clergy;" *And it is thereby also Provided* "That no Attainder of such Felony shall work Corruption of Blood, or Forfeiture of Dower, Lands, or Goods of the Offender." *And Whereas Doubts may arise as to what Offences the said Proviso was meant to extend; Be it therefore Enacted and Declared*, That the said Proviso was meant and intended, and shall be construed, deemed, and taken to extend only to the Felony of Maiming, as declared and expressed in the recited Clause in the said Act.

No Corruption of Blood &c. to extend to the Felony of Maiming.

V. *And be it further Enacted*, That the Justices of the Peace, before whom any Person shall be brought for any Murder, Manslaughter, or Felony, or for Suspicion thereof, shall take the Examination of such Prisoner, and Information of those that bring him, of the Fact and Circumstance thereof; and the same, or as much thereof as shall be material to prove the Fact, shall put in Writing; and the same shall certify, together with the Bailment of such Prisoner, (in case the Crime whereof such Prisoner is charged, is bailable) at the next Sessions of Oyer and Terminer or Gaol Delivery, to be holden within the Limits of their Commission: And that the said Justices shall bind all such by Recognizance or Obligation, as do declare any Thing material to prove such Murder, Manslaughter, or Felony against such Prisoner, to appear at the next Sessions of Oyer and Terminer or Gaol Delivery, to be holden within the County where the Trial of such Murder, Manslaughter, or Felony, shall be, then and there to give Evidence against such Prisoner; and that the said Justices shall certify the said Bonds or Recognizances taken before them, in like Manner as the Examinations of such Prisoner, and the Witnesses, are herein before directed to be certified.

Eng. Stat. 1. & 2.
Phil. & Mar. c. 13.
2. & 3. Phil. & Mar. c. 10.

The Justices Duty in the Examination and Bailment of a Prisoner, and in the Examination of Witnesses, and certifying thereof.

C A P. IV.

An A C T for enabling the Sale of Goods distrained for Rent.

Eng. Stat. 2. Will.
 & Mar. Stat. 1. c. 5.
 Brit. Stat. 8.
 Ann. c. 14.
 11. Geo. 2. c. 19.

Goods Distrained
 for Rent may be
 appraised and Sold.

W HEREAS the most ordinary and ready way for Recovery of Arrears of Rent is by Distress; yet such Distresses not being to be sold, but only detained as Pledges for enforcing the Payment of such Rent, the Persons distraining have little Benefit thereby; For the remedying whereof, Be it Enacted by the Lieutenant Governor, Council and Assembly, That where any Goods or Chattels shall be distrained for any Rent reserved and due upon any Demise, Lease, or Contract whatsoever, and the Tenant or Owner of the Goods so distrained shall not, within Five Days next after such Distress taken, and Notice thereof (with the Cause of such taking) left at the chief Mansion House, or other most notorious Place on the Premises charged with the Rent distrained for, replevy the same with sufficient Security to be given to the Sheriff, according to Law; that then in such Case, after such Distress and Notice as aforesaid, and Expiration of the said Five Days, the Person distraining shall and may with the Provost Marshal or his Deputy, or with the Constable of the Town or Place where such Distress shall be taken (who are hereby required to be aiding and assisting therein) cause the Goods and Chattels so distrained to be appraised by two sworn Appraisers (whom any Justice of the Peace of the County where such Goods shall be distrained, or such Provost Marshal or his Deputy, are hereby empowered to swear) to appraise the same truly according to the best of their Understandings; and after such Appraisement shall and may lawfully sell the Goods and Chattels so distrained, for the best Price can be gotten for the same, towards Satisfaction of the Rent for which the said Goods and Chattels shall be distrained, and of the Charges of such Distress, Appraisement and Sale, leaving the Overplus (if any) in the Hands of the said Provost Marshal, his Deputy, or Constable, for the Owner's use.

II. And Whereas no Sheaves or Cocks of Corn loose or in the Straw, or Hay in any Barn, or on any Hovel, Stack, or Rick, can by the Law be distrained, or otherwise secured for Rent, whereby Landlords may be oftentimes confused and deceived by their Tenants, who may sell their Corn, Grain, and Hay, to Strangers, and remove the same from the Premises chargeable with such Rent, and thereby avoid the Payment of the same, Be it further Enacted by the Authority aforesaid, That it shall and may be lawful to and for any Person or Persons having Rent Arrear, and due upon any such Demise, Lease, or Contract, as aforesaid, to seize and secure any Sheaves or Cocks of Corn, or Corn loose, or in the Straw, or Hay lying or being in any Barn, or upon any Hovel, Stack, or Rick, or otherwise upon any Part of the Land or ground charged with such Rent, and to lock up or detain the same in the Place where the same shall be found, for or in the Nature of a Distress, until the same shall be replevied upon

Corn loose &c. may
 be Distrained and
 sold.

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on such Security to be given as aforesaid; and in Default of replevyng the same as aforesaid, within the Time aforesaid, to sell the same after such Appraisement thereof to be made; so as nevertheless such Corn, Grain, or Hay, so distrained as aforesaid, be not removed by the Person or Persons distraining, to the Damage of the Owner thereof, out of the Place where the same shall be found and seized, but be kept there (as impounded) until the same shall be replevied, or sold in Default of replevyng the same within the Time aforesaid.

III. *And be it further Enacted*, That upon any Pound Breach, or Rescuous of Goods or Chattels distrained for Rent, the Person or Persons grieved thereby, shall, in a special Action upon the Case for the Wrong thereby sustained, recover his and their Treble Damages and Costs of Suit, against the Offender or Offenders in any such Pound Breach or Rescuous, any or either of them, or against the Owners of the Goods distrained in case the same be afterwards found to have come to his Use or ^{or} Possession.

Treble Damages
for Pound Breach.

IV. *Provided always, and be it further Enacted*, That in case any such Distress and Sale, as aforesaid, shall be made by Virtue or Colour of this present Act, for Rent pretended to be Arrear and due, where in Truth no Rent is Arrear or due to the Person or Persons distraining, or to him or them in whose Name or Names, or Right, such Distress shall be taken as aforesaid, that then the Owner of such Goods or Chattels distrained and sold as aforesaid, his Executors or Administrators, shall and may, by Action of Trespass, or upon the Case, to be brought against the Person or Persons so distraining, any or either of them, his or their Executors or Administrators, recover double of the Value of the Goods or Chattels so distrained and sold, together with full Costs of Suit.

Double Damages
and Costs against
wrongful Distrainer.

V. *And be it further Enacted*, That no Goods or Chattels whatsoever, lying or being in or upon any Messuage, Lands, or Tenements, which are or shall be leased for Life or Lives, Term of Years, at Will, or otherwise, shall be liable to be taken by virtue of any Execution, on any Pretence whatsoever, unless the Party at whose Suit the said Execution is sued out, shall before the Removal of such Goods from off the said Premises, by virtue of such Execution or Extent, pay to the Landlord of the said Premises, or his Bailiff, all such Sum or Sums of Money as are or shall be due for Rent for the said Premises at the Time of the taking such Goods or Chattels by virtue of such Execution; *Provided* the said Arrears of Rent do not amount to more than one Year's Rent; and in case the said Arrears shall exceed one Year's Rent, then the said Party, at whose Suit such Execution is sued out, paying the said Landlord, or his Bailiff one Year's Rent, may proceed to execute his Judgment, as he might have done before the making of this Act; and the Provost Marshal or his Deputy, or other Officer, is hereby impowered and required to levy and pay to the Plaintiff as well the Money so paid for Rent, as the Execution Money.

No Goods &c. to
be taken in Execu-
tion &c. unless the
Party before Remo-
val of the Goods
&c. pay the Land-
lord the Rent due.

Provided it amounts
to no more than
one Year's Rent.

The Provost Mar-
shall to levy the
Rent as well as the
Execution Money.

VI. *And*

If any Lessee for Life &c. shall fraudulently carry off Goods &c. the Lessor &c. may within 21 Days after seizure of such Goods &c. and sell the same as if they had been distrained.

VI. *And be it further Enacted*, That in case any Lessee for Life or Lives, Term of Years, at Will, or otherwise, of any Messuages, Lands, or Tenements, upon the Demise whereof any Rents are or shall be reserved or made payable, shall fraudulently or clandestinely convey or carry off or from such demised Premises, his Goods or Chattels, with Intent to prevent the Landlord or Lessor from distraining the same for Arrears of such Rent so reserved as aforesaid, it shall and may be lawful to and for such Lessor or Landlord, or any Person or Persons by him for that purpose lawfully empowered, within the space of Twenty one Days next ensuing such conveying away or carrying off such Goods or Chattels, as aforesaid, to take and seize such Goods and Chattels wherever the same shall be found, as a Distress for the said Arrears of such Rent, and the same to sell, or otherwise dispose of in such Manner, as if the said Goods and Chattels had actually been distrained by such Lessor or Landlord, in and upon such demised Premises for such Arrears of Rent; any Law, Custom, or Usage to the contrary in any wise notwithstanding.

Provided such Lessor shall not seize Goods &c. which shall be bona fide sold before.

VII. *Provided nevertheless*, That nothing in this Act contained shall extend, or be construed to extend, to empower such Lessor or Landlord to take or seize any Goods or Chattels as a Distress for Arrears of Rent, which shall be sold *bona fide*, and for a valuable Consideration, before such Seizure made; any Thing herein contained to the contrary notwithstanding.

Debt may be brought against Tenant for Life, for Rent.

VIII. *And Whereas no Action of Debt lies against a Tenant for Life or Lives, for any Arrears of Rent, during the Continuance of such Estate for Life or Lives, Be it Enacted*, That it shall and may be lawful for any Person or Persons, having any Rent in Arrear or due upon any Lease or Demise for Life or Lives, to bring an Action or Actions of Debt for such Arrears of Rent, in the same Manner as they might have done, in case such Rent were due and reserved upon a Lease for Years,

Rent in Arrear upon a Lease for Life &c. expired may be distrained for after the Determination of the Lease.

IX. *And Whereas Tenants pur autre vie, and Lessees for Years, or at Will, frequently hold over the Tenements to them demised, after the Determination of such Leases; And Whereas after the Determination of such, or any other Leases, no Distress can by Law be made for any Arrears of Rent that grew due on such respective Leases, before the Determination thereof; It is further Enacted*, That it shall and may be lawful, for any Person or Persons, having any Rent in Arrear or due upon any Lease for Life or Lives, or for Years, or at Will, ended or determined, to distrain for such Arrears, after the Determination of the said respective Leases, in the same Manner as they might have done, if such Lease or Leases had not been ended or determined.

Within what Time such Distress shall be made.

X. *Provided*, That such Distress be made within the Space of Six Calendar Months, after the Determination of such Lease and during the Continuance of such Landlord's Title or Interest, and during

during the Possession of the Tenant from whom such Arrears became due.

XI. *And be it further Enacted*, That it shall and may be lawful to and for every Lessor or Landlord, Lessors or Landlords, or his, her, or their Steward, Bailiff, Receiver, or other Person or Persons empowered by him, her, or them, to take and seize, as a Distress for Arrears of Rent, any Cattle or Stock, of their respective Tenant or Tenants, feeding or depasturing upon any Common, Appendant or Appurtenant, or any ways belonging to all or any Part of the Premises demised or holden; and also to take and seize all sorts of Corn and Grass, Hops, Roots, Fruits, Pulse, or other Product whatsoever, which shall be growing on any Part of the Premises so demised or holden, as a Distress for Arrears of Rent; and the same to cut, gather, make, cure, carry, and lay up, when ripe, in the Barns, or other proper Place on the Premises so demised or holden; and in case there shall be no Barn or proper Place on the Premises so demised or holden; then in any other Barn or proper Place which such Lessor or Landlord, Lessors or Landlords shall hire or otherwise procure for that Purpose, and as near as may be to the Premises; and in convenient Time to appraise, sell, or otherwise dispose of the same, towards Satisfaction of the Rent for which such Distress shall have been taken, and of the Charges of such Distress, Appraisement, and Sale, in the same Manner as other Goods and Chattels may be seized, distrained and disposed of; and the Appraisement thereof to be taken when cut, gathered, cured, and made, and not before.

Stock or Cattle on the Premises, may be distrained for Arrears of Rent.

XII. *Provided always*, That Notice of the Place where the Goods and Chattels so distrained shall be lodged or deposited, shall, within the space of one Week after the lodging or depositing thereof in such Place, be given to such Lessee or Tenant, or left at the last Place of his or her Abode.

Tenants to have Notice of the Place where the Distress is lodged.

XIII. *Provided always, and it is hereby Enacted*, That nothing in this Act contained shall extend, or be construed to extend, to let, hinder, or prejudice His Majesty, his Heirs or Successors, in the levying, recovering or seizing, any Quit Rents, Debts, Fines, Penalties, or Forfeitures, that are or shall be due, payable, or answerable, to His Majesty, his Heirs or Successors; but that it shall and may be lawful for His Majesty, his Heirs and Successors, to levy, recover, and seize, such Quit Rents, Debts, Fines, Penalties and Forfeitures, in the same Manner as if this Act had never been made; any Thing in this Act contained to the contrary thereof in any wise notwithstanding.

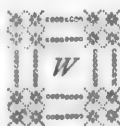
This Act shall not hinder the King &c. to levy &c. any Quit Rents &c. due to the Crown.

C A P. V.

An ACT in Addition to and Amendment of an Act made and passed in the Third Year of his present Majesty's Reign, intituled An Act to enable the Inhabitants of the several Townships within this Province to maintain their Poor.

3. Geo. 3. c. 7.
2. Sess.

Preamble.



HEREAS in the Act made and passed in the Third Year of his present Majesty's Reign, intituled An Act to enable the Inhabitants of the several Townships within this Province to maintain their Poor, The Freeholders are directed to meet on the first Monday in January annually, to make Provision for the Relief of the Poor; And Whereas it has been found inconvenient to have the Meeting at that Season of the Year, Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That the said Meeting shall be held, for the future, on the last Tuesday in October annually.

Meeting of Freeholders to be on the last Tuesday in October annually.

The Meeting may be adjourned to the next Day, if the Business is not completed the first Day.

II. And Whereas in the said Act, no Power is given to the Freeholders of the several Towns at their annual Meeting to adjourn in case the Business before them cannot be completed on the said Day, Be it therefore Enacted, That it shall and may be lawful for the Chairman of the said Freeholders when so assembled, and the Business before them cannot be finished on the first Day of their Meeting, to adjourn the said Meeting to the Day following, in order to compleat the Business.

If any Assessor refuse to serve, another shall be appointed in his stead.

III. And Whereas in the said Act, no Provision is made for the Choice of other Assessors, in the Room of such who may refuse to serve in the said Office, to which they shall be appointed, Be it Enacted, That if any such Assessors, so nominated and appointed, shall refuse to serve in the said Office, the said Freeholders shall proceed to nominate and appoint others in their stead.

Collectors neglecting their Duty forfeit £5.

IV. And Whereas no Provision is made in the said Act for compelling the Collectors who have accepted the said Office, to put the said Act in Force against such Persons who may refuse to pay the several Sums, in which they shall be assessed, Be it Enacted, That when any such Collector or Collectors so appointed, shall neglect his or their Duty for the Space of Thirty Days, in complying with the Directions in the said Act contained, every such Collector shall forfeit and pay the Sum of Five Pounds for every such Neglect, to be prosecuted and recovered by the Overseers of the Poor of the Town where such Offence shall be committed, by Bill, Plaint, or Information, in any of His Majesty's Courts of Record, to be applied to the Use of the Poor of such Town.

V. And be it further Enacted, That all former Assessments heretofore

tofore made, for the Maintenance of the Poor, shall be and are hereby confirmed, any want of Form, or other Defect in the Time of Meeting of the said Freeholders notwithstanding.

Former Assessments confirmed.

C A P. VI.

An ACT in Addition to an Act made and passed in the Fifth Year of his present Majesty's Reign, intituled *An Act for the Choice of Town Officers and regulating of Townships.*

5. Geo. 3. c. 1.

HEREAS in and by an Act made and passed in the Fifth Year of his present Majesty's Reign, intituled *An Act for the Choice of Town Officers and regulating of Townships, it is among other Things Enacted*, "That the Grand Juries of the Quarter Sessions of the Peace shall annually nominate four fit Persons out of whom the Court shall appoint two to be Surveyors of Highways," And Whereas in some Towns two Surveyors of Highways are not sufficient; Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That for the future the said Grand Juries of the Quarter Sessions of the Peace shall annually nominate Eight fit Persons, out of whom the said Court of Quarter Sessions shall have Power to appoint two or more Persons to be Surveyors of Highways; any Law, Usage, or Custom to the contrary notwithstanding.

Preamble.

The Grand Jury to nominate Eight Persons, of whom the Court to appoint two or more to be Surveyors of Highways.

C A P. VII.

An ACT for taking Special Bails in the Country, upon Actions depending in His Majesty's Supream Court of this Province.

OR the greater Ease and Benefit of all Persons whatsoever, in making Oath to their Debts, and in taking the Recognizances of Special Bails, upon all Actions and Suits depending, or to be depending in His Majesty's Supream Court of this Province: Be it Enacted by the Lieutenant Governor, Council, and Assembly, That the Chief Justice and other the Justices of His Majesty's said Supream Court, or any two of them, whereof the Chief Justice for the Time being to be one, shall or may, by one or more Commission or Commissions under the Seal of the said Court, from Time to Time as Need shall require, empower such and so many Persons, other than common Attornies and Solicitors, as they shall think fit and necessary, in all and every the several Counties within this Province, to administer an Oath in Writing to any Person where it shall be necessary to hold any Defendant to Bail, upon any Original Writ or Process issuing out of the said Court,

Preambles

4. Will. & Mar. c. 4.

Chief Justice &c. of the Supream Court, may make any Persons, except Attornies and Solicitors, Commissioners to take Bail &c. in the Country.

Court, and to mark the Writ for Bail accordingly; and also to take and receive all and every such Recognizance or Recognizances of Bail or Bails, as any Person or Persons shall be willing or desirous to acknowledge or make before any of the Persons so impowered, in any Action or Suit depending or hereafter to be depending in the said Court, in such Manner and Form and by such Recognizance or Bail Piece, as the said Justices have used to take the same; which said Oath in Writing, and the said Recognizance or Recognizances of Bail, or Bail Piece, so taken as aforesaid, shall be transmitted to some or one of the Justices of the said Court, who, upon Affidavit made of the due taking of the Recognizance of such Bail or Bail Piece, by some credible Person present at the taking thereof, shall receive the same, upon Payment of a Fee of Two Shillings and no more; which said Oath, and Recognizance of Bail, or Bail Piece, so taken and transmitted, shall be of the like Effect, as if the same were taken *de bene esse* before any of the said Justices of the said Court; for the administering of every which Oath and marking such Writ as aforesaid, the said Commissioners shall receive only the Sum or Fee of Two Shillings and no more; and for the taking of every which Recognizance or Recognizances of Bail or Bail Piece, the said Commissioners shall receive only the Sum or Fee of Five Shillings and no more.

II. *And be it further Enacted*, That the Justices of the said *Supream Court* shall make such Rules and Orders for the justifying of such Bails, and making of the same absolute, as to them shall seem meet, so as the Cognizor or Cognizors of such Bail or Bails be not compelled to appear in Person in the said Court, to justify him or themselves, but the same may be and hereby is directed to be determined by Affidavit or Affidavits duly taken before the said Commissioners, who are hereby impowered and required to take the same, and also to examine the Sureties upon Oath, touching the Value of their respective Estates, unless the Cognizor or Cognizors of such Bail do live within the Town of *Halifax*, or within Twenty Miles thereof,

III. *And be it further Enacted*, That any Person or Persons, who shall before any Person or Persons impowered by virtue of this Act, as aforesaid, to take Bail or Bails, represent or personate any other Person or Persons, whereby the Person or Persons so represented or personated may be liable to the Payment of any Sum or Sums of Money, for Debt or Damages to be recovered in the same Suit or Action, wherein such Person or Persons are represented and personated, as if they had really acknowledged and entered into the same, being lawfully convicted thereof, shall be adjudged, esteemed, and taken to be Felons, and suffer the Pains of Death, and incur such Forfeitures and Penalties as Felons in other Cases convicted or attainted do by the Law of England lose and forfeit.

Justices to receive
the Bail Piece &c.
upon Affidavit of
due Execution.

Justices Fee.

Bail taken below to
be as *de bene esse*.

Commissioners Fee.

Power given to the
Justices to make
Rules for justifying
the Bail.

Felony for any Per-
son to be Bail in
another Man's
Name.

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C A P. VIII.

An A C T for the convenient and speedy Assignment
of Dower.

***** ORASMUCH as some Directions in the Law are necessary,
 F that Women may be enabled to come by their Dower; Be it
 Enacted by the Lieutenant Governor, Council, and Assembly,
 That when and so often as the Heir or other Person
 having the Freehold, shall not within one Month next after De-
 mand made, assign and set out to the Widow of the Deceased, her
 Dower or just third Part of and in all Houses, Lands, Tenements,
 or Hereditaments, whereof she is Dowable at the Common Law,
 to her Satisfaction according to the true Intendment of Law, then
 such Widow may sue for and recover the same by Writ of Dower,
 to be therefore brought against such Persons as have, or claim to
 have Right as aforesaid in the said Estate, in Manner and Form
 following, That is to say,

Preamble.
 Heir &c. to render
 Dower within one
 Month next after
 Demand,

II. GEORGE the Third, by the Grace of GOD of Great Britain,
 France and Ireland, KING, Defender of the Faith, &c,

To the Provost Marshal of Our Province of Nova Scotia, or his Depu-
 ty, Greeting.

COMMAND A. B. within the said County, that instantly with-
 out Delay render to C. D. who was the Wife of E. D. Writ of Dower.
 late of aforesaid deceased, her reasonable Dower which
 happens to her of a certain Messuage or Tenement with the Appurte-
 nances, situate in aforesaid, in the Possession of the said A. B.
 which was in the Seizin and Possession of her said Husband E. D. and
 whereof he was seized in his Demesne as of Fee during the Coverture,
 and whereof she hath nothing (as she saith) and the said C. D. com-
 plains that the said A. B. hath desorced her thereof. And unless the
 said A. B. shall so do, then summon by good and lawful Men in the said
 County, the said A. B. that he be before our Justices of Our
 Court next to be holden at for the County of
 aforesaid, on the Day of then and there to shew Cause,
 why to the said C. D. her reasonable Dower as aforesaid doth
 not render. And have you the Names of them by whom you summon
 the said A. B. and this Writ. Witness E. H. Esquire, at
 the Day of in the Year of Our Reign, Annoque
 Domini

A. D. Clerk,

II. And be it further Enacted, That upon Judgment being given
 for any Woman to recover her Dower in any Estate of Houses and
 Lands, and other Hereditaments, which were her Husband's,
 reasonable Damage shall also be assigned to her from the Time of
 the Demand made, and a Writ of Seizin shall be directed to the
 Provost

Reasonable Da-
 mage to be as-
 signed to the Wi-
 dow.

Provost Marshal or his Deputy, in Manner and Form following;
That is to say.

II. GEORGE the Third, by the Grace of GOD, of Great Britain,
France, and Ireland, KING, Defender of the Faith, &c.

To the Provost Marshal of Our Province of Nova Scotia, or his Deputy,
Greeting.

Writ of Seizin.

WHEREAS C. D. Widow, who was the Wife of E. D. late
of in the County aforesaid deceased, before our
Justices of our Court holden at for Our County aforesaid,
on the Day of now last past, did recover her Seizin a-
gainst A. B. of aforesaid of one Third Part of a certain
Messuage or Tenement, &c. with the Appurtenances, situate in
aforesaid, in the Possession of the said A. B. as her Dower of the En-
dowment of the said E. D. her certain Husband, by Our Writ of
Dower, whereof she hath nothing. Therefore We Command you that
to the said C. D. full Seizin of one Third Part of the aforesaid Mes-
suage or Tenement, &c. with the Appurtenances you cause to be had
without Delay: To hold to her in Severalty by Meter and Bounds.
We Command you also, that of the Goods or Chattels of the said A. B.
within your Precinct, you cause to be paid and satisfied unto the said
C. D. at the Value thereof in Money, the Sum of for Damages
awarded her by Our said Court, for her being held and kept out of her
Dower aforesaid, and Costs expended on this Suit, with more
for this Writ; and thereof also to satisfy yourself your own Fees. And
for want of Goods or Chattels of the said A. B. to be by him shewn unto
you, or found within your Precinct, to satisfy the same, We Command
you to take his Body, and commit him to the Keeper of Our Gaol in
in Our County aforesaid within the said Prison. Whom we
likewise Command to receive the said A. B. and him safely to keep, until
he pay unto the said C. D. the full Sum above mentioned, and also satisfy
your Fees. Hereof fail not, and make Return of this Writ, and how
you shall have executed the same, to Our next Court to be
holden at for Our said County of on the Day of
next. Witness E. H. Esquire, at the Day of
in the Year of Our Reign, Annoque Domini 17
A. D. Clerk.

And where no Damages shall be awarded, the Writ to run only for
Seizin and Costs of Suit.

Dower to be set
forth by five Free-
holders, upon Oath.

III. And be it further Enacted, That the Provost Marshal or
his Deputy, to whom such Writ is directed, is to cause her Third
Part of Dower in such Estate, to be set forth unto her by five
Freeholders of the Neighbourhood, upon their Oaths, (Three at
least to agree) who shall be sworn before a Justice of the Peace,
to set forth the same equally and impartially without Favor or Af-
fection, as convenient as may be; which Oath every Justice of
the Peace is hereby impowered to administer.

IV. And

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IV. *And be it further Enacted*, That of Inheritances that be intire, where no Division can be made by Metes and Bounds, so as a Woman cannot be endowed of the Thing itself, she shall be endowed thereof in a special and certain Manner, as of a Third Part of the Rents, Issues, or Profits thereof, to be computed and ascertained in Manner as aforesaid. And no Woman that shall be endowed of any Lands, Tenements, or other Inheritances, as aforesaid, shall commit or suffer any Strip or Waste thereupon, but shall maintain the Houses or Tenements, with the Fences and Appurtenances thereof, with which she shall be so endowed, in good Repair during her Term, and leave the same so at the Expiration thereof, and shall be liable to Action for any Strip or Waste by her done, committed or suffered.

In what Manner
intire Inheritances
shall be assigned.

Widow shall not
make Strip or
Waste.

C A P. IX.

An ACT in further Addition to and in Amendment of an Act, made and passed in the Thirty Fourth Year of his late Majesty's Reign, intituled *An Act for appointing Commissioners of Sewers.*

34. Geo. 2. c. 7.

HEREAS in an Act made and passed in the Thirty Fourth Year of his late Majesty's Reign, intituled An Act for appointing Commissioners of Sewers, it is amongst other Things Enacted, "That the Commissioners of Sewers shall be empowered to meet and convene together from Time to Time, as occasion may require, to view, consider, consult, and contrive such Ways and Methods for building and repairing such Dykes and Weirs, as are necessary to prevent Inundations; and for drowning and draining of Swamps and other unprofitable Grounds, and to employ Workmen and Labourers for such reasonable Wages as may be agreed on for effecting the Premises, and from Time to Time, to assess and tax all such Persons as may or shall be Owners of such Meadows, Marshes, or such unprofitable Swamps or Lands aforesaid, towards the Charge thereof." And Whereas many of the Commissioners of Sewers complain that assessing the Owners of such Lands as aforesaid, by no means answers the Intention proposed by said Act, as Labourers cannot be hired in lieu of such Owners of Lands as aforesaid, whereby it may happen that large Quantities of Corn or Grass on the Marsh Lands, may be greatly damaged or utterly spoiled by the Sea overflowing the same, for want of immediate Labour, to the great Loss and Discouragement of the industrious Farmer, and to the Detriment of the Province; For Remedy whereof, Be it Enacted by the Lieutenant Governor, Council, and Assembly, That from and after the Publication hereof, each and every Owner or Possessor of Marsh Lands in any Township, District, or Place, within this Province, (where Commissioners of Sewers are appointed) shall in all common Cases, either in raising new or repairing old Dykes, or ditching or draining

Preamble.

Owner &c. of
Marsh Land shall
attend himself or
send a sufficient La-
bourer in common
Cases, to work in
raising Dykes &c.

ing Lands, attend either by himself or provide a sufficient Labourer with proper Tools, to work at the Time and Place appointed by the said Commissioners of Sewers, agreeable to the Rules and Regulations made for that purpose; and when it shall happen that any Owner or Possessor of any such Marsh Lands in any Township, District, or Place, shall have, occupy, or receive, the Produce of a greater Quantity of said Lands than one Right or Share, in such Marsh, that then and in such Case every Owner or Possessor shall furnish a Number of Labourers in Proportion to their respective Quantities of Lands, as agreed on by the Commissioners of Sewers: And where it may be necessary to employ Oxen or Carts, for the more expeditiously carrying on their Work, each and every Owner or Possessor of such Lands, who have Oxen or Carts, shall in like Manner be obliged to attend with, or send such Oxen or Carts for the Work aforesaid, and in the aforesaid Proportion, in Lieu of Labourers.

in Proportion to the Quantities of Lands he shall possess.

Oxen and Carts may be employed in lieu of Labourers

Six Days Notice to be given of the Time and Place where the work is to be done.

II. *Provided always* That such Owner or Possessor of such Lands to be dyked or drained, shall have at least *Six Days* Notice of the Time and Place where such Work is required to be done, by one or more of the Commissioners of Sewers, or by some Person appointed by them for that Purpose.

In Case of any sudden Breach in any Dyke &c., every Owner or Possessor of Lands within such Dyke, shall immediately repair to the Place directed, and endeavour to repair such Breach, &c.

III. *And be it further Enacted*, That in Case of any sudden Breach in any Dyke, or where any Breach is likely to be made or Inundation occasioned by Storms, high Tides, or otherwise, each and every Owner or Possessor of Land within such Dykes shall immediately, on Notice being given by any one or more of the Commissioners of Sewers or Persons appointed by them, repair to the Place directed, with proper Tools, to labour and use their utmost Endeavours to repair such Breach or Place likely to be a Breach; and shall continue to work from Day to Day on the same, so long as the Commissioners of Sewers shall judge it absolutely necessary, for preserving the Land and Produce within such Dyke from Damage.

Penalties on Owners or Possessors of Marsh or Dyke Lands, refusing or neglecting to Labour.

IV. *And be it also Enacted*, That if any Owner or Possessor of any Marsh or Dyke Lands within any Township, District, or Place within the Province as aforesaid, shall neglect or refuse to attend and labour, or to send a sufficient Number of Labourers at the Time and Place to be appointed by the Commissioners of Sewers as aforesaid, in Proportion to the Quantity of Land in his or their Possession, (due Notice having been given as aforesaid) each and every delinquent Owner or Possessor of such Lands shall forfeit and pay, over and above their Assessment or Tax to be made by virtue of the aforementioned Act, the Sum of Five Shillings for every Day's Neglect or Refusal for each and every Labourer such Owner or Possessor of such Land ought to have sent. And if such Owner or Possessor of such Lands shall neglect or refuse to attend and labour, where any sudden Breach shall happen, or be likely to happen to any such Dykes, on immediate Notice given to such Owner or Possessor, such Delinquent Owner or Possessor shall forfeit and pay the Sum of

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or Ten Shillings for each Day's Neglect, for each and every Per-
son which should have been sent by him, and so in like Propor-
tion for Oxen and Carts; to be recovered by Warrant of Distress,
on Conviction before any one of His Majesty's Justices of the
Peace for the County where the Offence shall be committed, and
for want of Goods and Chattels to satisfy such Distress and Char-
ges, the Lands of such Delinquent, or so much as shall be suffi-
cient, shall be held and let out by said Justice until the Produce
thereof shall amount to the Fine and Charges so levied, in the same
Manner as is directed by Law for a Delinquent's Proportion of
Assessments or Taxes for making and repairing Dykes; and the
Monies arising from such Fines to be paid into the Hands of the
Commissioners of Sewers to be appropriated for the making and re-
pairing Dykes, in the Township, District, or Place, where the
same shall be recovered.

To be recovered
before any Justice
of the Peace for
the County,

and appropriated
for making and re-
pairing Dykes.

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C A P. X.

In ACT for discharging the Penalties and Forfeitures
in Bonds, Contracts, and Agreements, on Payment
and Satisfaction of the principal Sum and Damages
due upon the same.

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*Be it Enacted by the Lieutenant Governor, Council, and
Assembly,* That in every Action upon any Bond, Con-
tract, and Agreement, with Penalty for Performance
of the Condition contained in such Bond, Contract,
or Agreement, it shall and may be lawful for the re-
spective Courts, where such Action shall be brought, upon due
Proof of the just Sum due upon the Condition of such Bonds,
Contracts, and Agreements, together with all such Damages and
Costs as have been incurred by Non performance of the Condition,
to direct and receive a Verdict for the Sum and Damages so pro-
ved at the Trial; and to cause Satisfaction to be entered up on
the Judgment upon such Bond, Contract and Agreement, upon
Payment of the Debt and Damages, so to be ascertained by Ver-
dict or otherwise.

4. Ann. c. 16.

In Actions brought
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II. *And be it further Enacted,* That when any Action of Debt
shall be brought on any single Bill, or where Debt or *Scire facias*
shall be brought on any Judgment, if the Defendant hath paid
the Money, such Payment may be pleaded in Bar; and where Debt
is brought on any Bond which hath a Condition or Defeazance to
make void the same upon Payment of a lesser Sum, if the Obligor,
his

In Action of Debt
brought on single
Bill or Judgment,
after Money paid,
such Payment may
be pleaded in Bar.

his Heirs, Executors, or Administrators, have, before the Action brought, paid the Principal and Interest due, though such Payment was not made strictly according to the Condition of the De-feazance, yet it may be pleaded in Bar, and shall be as effectual as if the Money had been paid at the Day and Place according to the Condition, and had been so pleaded.

Principal and Interest on Bonds, &c. being paid in Court, &c. the Court may discharge the Defendant.

III. *And be it further Enacted*, That if at any Time pending an Action upon such Bond with a Penalty, the Defendant shall bring into Court the Principal and Interest due, and all Costs already expended in any Suit in Law or Equity upon such Bond, the Money shall be taken in Satisfaction of the Bond, and the Court shall give Judgment to discharge such Defendant.

C A P. XI.

An ACT to prevent the malicious killing or maiming of Cattle.

22. & 23. Car. 2.
c. 7. §. 5.

Treble Damages
for killing or
maiming of Cattle.

*** *Be it Enacted by the Lieutenant Governor, Council, and Assembly*, That if any Person or Persons, shall maliciously, unlawfully, and willingly, kill, maim, wound, or otherwise hurt, any Horses, Sheep, or other Cattle, every such Offender or Offenders shall lose and forfeit unto the Parry grieved, Treble the Damage which he or they shall sustain, to be recovered by Action of Trespafs, or upon the Case, in any of His Majesty's Courts of Record in this Province.

C A P. XII.

An ACT in further Addition to, and in Amendment of an Act made and passed in the Thirty Second Year of His late Majesty's Reign, intituled *An Act for preventing Trespasfes*.

32. Geo. 2. c. 14.

Preamble.

*** *W* *HELEAS* the common Method of fencing is generally with Poles in the Manner of Virginia Fence, which Kind of Fence is not clearly expressed in any former Act of this Province relating to Trespasfes; *Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly*, That the Pole Fence,

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as is now commonly used, or any other Fence made of Brush or other Materials, to the Judgment of the Fence Viewer, shall be deemed and held to be lawful, and if any dispute shall arise thereon, the same shall be adjudged and determined immediately and without Delay by any two Men of known Reputation, to be mutually chosen by the Parties, which two Men, together with the Fence Viewer, or the Majority of them, shall and are hereby impowered to determine the same; and in Case either of the said Parties shall neglect or refuse to make such Choice and Appointment, then the said Choice shall and may be made by the Party willing and ready to do the same; any Law, Usage, or Custom to the contrary notwithstanding.

Pole Fences &c. to
be deemed lawful,
according to the
Judgment of the
Fence Viewer, &c.

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At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Twenty Eighth Day of *May*, *Anno Domini* 1765, in the Fifth Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain*, *France*, and *Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Twenty Second Day of *October*, 1768, in the Eighth Year of His said Majesty's Reign, being the Seventh Session of the Fourth GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT in further Addition to, and Amendment of an Act made in the Third Year of His present Majesty's Reign, intituled *An Act to enable the Inhabitants of the several Townships within this Province to maintain their Poor.* 3. Geo. 3. c. 71.
2. Sess.

HEREAS by an Amendment made in the last Session of the General Assembly, to an Act intituled An Act to enable the Inhabitants of the several Townships in this Province to maintain their Poor, the Freeholders are directed to meet on the last Tuesday in October annually, to make Provision for the Relief of the Poor: And Whereas it is found inconvenient to have the Meeting on the Day, Be it Enacted by the Lieutenant Governor, Council, and Assembly, That the said Meeting of the Freeholders for the Purposes aforesaid, shall be on the last Tuesday of November annually.

Preamble.

Meeting of Freeholders to be on the last Tuesday, in November annually.

II. And be it further Enacted, That the Overseers of the Poor for the Time being shall issue their Precept to the Constables of the several Townships within this Province, requiring them to notify the Inhabitants to meet on the Day appointed by this Act, and make Provision for the Support of the Poor, agreeable to the

Notice of the Meetings annually, shall be given by the Overseers of the Poor,

§ 3. G. 2. c. 7.
2 Sec.

on Penalty of £10.

Directions of the Act to enable the Inhabitants of the several Townships to maintain their Poor; and if such Overseers shall neglect to issue their Precept as aforesaid, each of the said Overseers shall forfeit and pay to the Treasurer of the Province, for the Use of the Poor, the Sum of Ten Pounds, to be recovered by Bill, Plaint, or Information in any of His Majesty's Courts of Record in this Province.

III. *And Whereas in and by the aforesaid Act, it is enacted, "That if any of the Assessors or Collectors chosen and appointed " shall refuse to serve in their respective Offices, each Person so " refusing shall forfeit and pay to the Overseers of the Poor, for " the Use of the Poor of said Township, the Sum of Forty " Shillings;" but no Provision is made for recovering the said Forfeiture, Be it Enacted, That all such Forfeitures shall and may be recovered by Complaint, or Information before any two of his Majesty's Justices of the Peace for the County wherein the same shall arise, and be levied by Warrant of Distress and Sale of the Offenders Goods and Chattels,*

Penalties on Assessors and Collectors for refusing to serve in their respective Offices, to be recovered before two Justices of the Peace.

C A P. II.

An ACT for the rating and levying of the Charges for conveying Malefactors and Offenders to the Gaol.

Preamble.

Reg. Stat. 3 Jac. 1.
c. 10.

Offenders to be conveyed to Gaol at their own Charge.

WHEREAS His Majesty's Subjects are much charged and burthened in conveying Felons and other Malefactors and Offenders against His Majesty's Laws, unto the Gaol, punishable by Imprisonment there, the said Felons and other Malefactors and Offenders having Goods and Chattels of their own, whereby to defray the same Charges themselves, to the great Encouragement of such Malefactors and Offenders in their said wicked and bad Courses, and to the Discouragement of His Majesty's said Subjects, in prosecuting the said Malefactors and Offenders to be punished according to their Demerits; Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That all and every Person and Persons whatsoever, that shall hereafter be committed to the common or usual Gaol within any County in this Province, by any Justice or Justices of the Peace, for any Offence or Misdemeanor, that the said Person or Persons so to be committed as aforesaid, having Means or Ability thereunto, shall bear their own reasonable Charges for so conveying or sending them to the said Gaol, and the Charges also of such as shall be appointed to guard them to such Gaol, and shall so guard them thither: And if any such Person or Persons, so to be committed as aforesaid, shall refuse at the Time of their Commitment and sending to the said Gaol, to defray the said Charge, or shall not then pay or bear the same, that then such Justice or Justices of the Peace shall

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II. *And so to be c have any c aforesaid, Justice or Officer wh upon Oath to be allow with, wit Hand and County to quired to so paid sha*

III. *And ding Court pear as Wi Justice, an Enacted, nizeance in of any Gr be in the l such Perso Court to o shall have Money, a Trouble a Court is h liver unto Six Pence rized and pay to suc same, such same in his*

IV. *And*

and may, by Writing under his or their Hand and Seal, or Hands and Seals, give Warrant to the Constable or Constables of the Town or Place where such Person or Persons shall be dwelling and inhabit, or from whence he or they shall be committed as aforesaid, or where he or they shall have any Goods within the County, Town or Place, to sell such and so much of the Goods and Chattels of the said Persons, so to be committed, as by the Discretion of the said Justice or Justices of the Peace, shall satisfy and pay the Charge of such his or their conveying and sending to the said Gaol; the Appraisement to be made by four of the honest Inhabitants of the Town or Place where such Goods or Chattels shall remain and be, and the Overplus of the Money which shall be made thereof to be delivered to the Party to whom the said Goods shall belong.

How the Charges shall be levied if the Prisoner refuse to pay.

II. *And be it further Enacted*, That if the said Person or Persons so to be committed as aforesaid, shall not have or be known to have any Goods or Chattels, which may be sold for the Purpose aforesaid, within the County, Town or Place, that then the said Justice or Justices, on Application by any Constable or other Officer who so conveyed such Person or Persons to Gaol, shall upon Oath examine into and ascertain the reasonable Expences to be allowed such Constable or other Officer, and shall forthwith, without Fee or Reward, by Warrant under his or their Hand and Seal, or Hands and Seals, order the Treasurer of the County to pay the same, which the said Treasurer is hereby required to do, as soon as he receives such Warrant; and any Sum so paid shall be allowed in his Accounts.

If the Offender be not able to bear his Charges, the same shall be paid by the County Treasurer.

III. *And Whereas the Expence as well as Loss of Time in attending Courts of Justice, is a Discouragement to the poorer Sort to appear as Witnesses against Offenders, who thereby escape the Public Justice, and the Punishment due to their Crimes, Be it further Enacted*, That when any poor Person shall appear on Recognizance in any Court, to give Evidence against another accused of any Grand or Petit Larceny, or other Felony, it shall and may be in the Power of the Court, at the Prayer and on the Oath of such Person, and on Consideration of his Circumstances, in open Court to order the Treasurer of the County in which the Offence shall have been committed, to pay unto such Person such Sum of Money, as to the said Court shall seem reasonable for his Time, Trouble and Expence; which Order the proper Officer of such Court is hereby directed and required to make out, and to deliver unto such Person, upon being paid for the same the Sum of Six Pence and no more; and such Treasurer is hereby authorized and required, upon Delivery of such Order, forthwith to pay to such Person, or other Person authorized to receive the same, such Sum of Money as aforesaid, and shall be allowed the same in his Accounts.

Brit. Stat. 27. Geo. 2. c. 3.

Charges of poor Witnesses to be paid by the County Treasurer, by Order of Court.

IV. *And be it further enacted*, That in such Counties where no County

In Counties where no Treasurer is appointed, &c. such Charges shall be paid out of the public Treasury.

The Defendant's Plea in an Action brought for any Thing done by Force of this Act.

The Defendant shall recover Treble Damages, and Costs of Suit.

County Treasurer shall have been chosen, or in Case such Treasurer shall not have any Money in his Hands, to pay the Sum so ordered for conveying poor prisoners to Gaol, or for the Attendance of Witnesses, that then and in such Case the same shall be paid out of the Public Treasury of the Province.

V. *And be it further Enacted*, That if any Action of Trespass or other Suit shall happen to be attempted or brought against the Person or Persons for taking of any Distress, making of any Sale, or any other Act by Authority of this present Act, the Defendant or Defendants in any such Action or Suit, shall and may either plead Guilty, or otherwise make Avowry, Cognizance or Justification, for the taking of the said Distress, making of Sale, or any other Act by Virtue of this Act, alledging in such Avowry, Cognizance, or Justification, that the said Distress, Sale, Trespass or other Thing whereof the Plaintiff or Plaintiffs complained, was done by Authority of this Act, and according to the Tenor, Purport, and Effect of this Act, without any expressing or Rehearsal of any other Matter of Circumstance contained in this present Act: To which Avowry, Cognizance, or Justification, the Plaintiff shall be admitted to reply, That the Defendant did take the said Distress, made the said Sale, or did any other Act or Trespass supposed in his Declaration, of his own Wrong, without any such Cause alledged by the said Defendant; whereupon the Issue in every such Action shall be joined to be tried by Verdict of Twelve Men, and not otherwise, accustomed in other Personal Actions; and upon the Trial of that Issue the whole Matter to be given on both Parties in Evidence, according to the very Truth of the same; and after such Issue tried for the Defendant, or Nonsuit of the Plaintiff after Appearance, the said Defendant to recover Treble Damages by Reason of his wrongful Vexation in that Behalf, with Costs also on that Part sustained, and that to be assessed by the same Jury, or Writ to enquire of the Damages, as the same shall require.

C A P III.

An ACT for empowering the Justices of the Peace for the County of *Halifax*, to hold a Court of Special Sessions of the Peace at *Onslow* in the said County, or the Towns of *Truro*, *Onslow*, and *London-derry*.

Preamble.

WHEREAS the Want of Roads and the Distance between *Halifax* or *Windfor*, and the Townships of *Truro*, *Onslow*, and *London-derry*, makes the Attendance of Persons resident in the said Townships of *Truro*, *Onslow*, and *London-derry*, at the General Sessions of the Peace, held at *Halifax* or at *Windfor*, very inconvenient; for remedy whereof, Be it Enacted

by the Liege be held and of *Halifax* on the first of the Peace, be cognized arise with derry.

An Act



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II. *And* sworn acc such Hide such as he wise dress have been starriped a Town wh veyor shall Hides and every Ox, Calf Skin being so f the Survey said Hide.

III. *And* presume to and shall b Justices of

by the Lieutenant Governor, Council, and Assembly, That there shall be held and kept within the Township of *Oxford* in the County of *Halifax*, in every Year, on the first Tuesday of *February*, and on the first Tuesday of *August*, a *Special Court of General Sessions of the Peace*; and any three or more of the Justices of the Peace for the County of *Halifax*, one whereof to be of the *Quorum*, shall and may hold the said Court; and such Court shall have, hold, use, exercise and enjoy all and singular the Powers, which are by Law already given and granted unto *Courts of General Sessions of the Peace*, so far as relates to all such Matters and Things as shall be cognizable by such Courts, and have arisen, or which may arise within the said Township of *Truro, Oxford, and Londonderry*.

Special Sessions to be held at *Oxford*, for the Townships of *Truro, Oxford, and Londonderry*.

C A P. IV.

An Act relating to Searchers and Sealers of Leather.

B *E it enacted by the Lieutenant Governor, Council, and Assembly*, That no Tanner or other Person whatsoever, shall sell or expose to sale, any Leather tanned, curried, or otherwise dressed or manufactured within this Province, or imported into the same (from any of the neighbouring Colonies) till the same has been viewed, stamped, and marked by the Officer for that Purpose to be appointed on pain of forfeiting the Sum of Twenty Shillings for every Ox, Bull, Steer, or Cow Hide, and Five Shillings for every Calf Skin to fold or offered to be sold.

No Leather shall be sold or exposed to Sale, before it has been viewed and marked by the Surveyor.

II. *And be it further enacted*, That every Surveyor appointed and sworn according to Law, shall, from Time to Time, view all such Hides and Skins as aforesaid, and shall stamp and mark all such as he shall find to be sufficiently tanned, curried, or otherwise dressed or manufactured; and if any such Hides or Skins shall have been manufactured within this Province, the same shall be stamped and marked with the first Letter of the Name of the Town wherein they have been so manufactured, and such Surveyor shall be paid for his Trouble in viewing and marking such Hides and Skins, at the following Rates, *That is to say*, for every Ox, Bull, Steer or Cow Hide, three Pence, and for every Calf Skin one Penny; and every Hide shall, at the Time of being so surveyed and marked, be weighed also in Presence of the Surveyor, and the weight thereof shall by him be marked on said Hide.

The Surveyor shall view all Hides and Skins, and mark such as are sufficiently tanned, &c.

and if manufactured within the Province, the same shall be marked with the first Letter of the Name of the Town where manufactured.

III. *And be it also enacted*, That if any Person or Persons shall presume to counterfeit the Stamp or Mark by this Act required, and shall be thereof convicted before any Two of His Majesty's Justices of the Peace, he shall forfeit the Sum of Ten Pound.

Penalty £10 for counterfeiting the Surveyor's Mark.

How Forfeitures
and Penalties
shall be applied.

IV. *And be it also further enacted*, That all Forfeitures and Penalties arising by Force and Virtue of this Act, shall be one half to the Informer, and the other half to the use of the Poor, and be recovered by Complaint or Information, before any two of His Majesty's Justices of the Peace for the County where such Complaint or Information shall arise; and be levied, upon due Conviction, by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of such Justices; and for want of sufficient Distress the Offender to suffer one Month's Imprisonment.

CAP. V.

An Act for establishing the Times of holding the Supreme Court.

Preamble.

*** *WHEREAS* great Inconveniences, by fixing and confining the
* *W* *Times of holding His Majesty's Supreme Court of this Pro-*
* *vince to two Terms only in the Year, have arisen, and may*
* *further arise from a Want of a more speedy Administration of*
Justice in Capital Offences, both from the long and injurious Detention
and Confinement of such Prisoners who, upon their Trial and Defence,
may appear to be innocent of the Crimes for which they are committed,
and also from protracting the Punishment of Offenders who may appear
to be guilty of Crimes of the most enormous Nature, and of dangerous
Tendency to the Safety and Peace of the Public, and by such Delay of
Justice emboldening Offenders, and weakening the Force and Terrors of
the Laws; and likewise in hearing and determining Causes of Property
in the said Court, both Originally and by Writs of Error from the In-
ferior Courts, to the great Delay of the Subject in recovering their
Civil Rights and Demands, and more especially as Suits are most fre-
quently and generally commenced in the said Supreme Court; Be it
therefore Enacted by the Lieutenant Governor, Council, and Assembly,
and by the Authority of the same it is hereby Enacted, That His Ma-
jefty's said Supreme Court shall be holden at four Terms in every
Year, that is to say, on the first Tuesdays in the Months of Janu-
ary, of April, of July, and of October; and that the said Court
shall be and is hereby empowered to proceed in the said respective
four Terms, in the same Manner as in the said two Terms hereto-
fore limited and appointed; and that the several Laws of this Pro-
vince respecting the summoning of Jurors, shall extend and be
construed to extend to the holding of the said Supreme Court at the
four Terms as before directed; and that all the Proceedings,
Rules, Judgments and Executions of the said Supreme Court, in
the Course of their Sitzings in the said Terms, shall be good, valid,
and effectual, to all Intents and Purposes whatsoever.

The Supreme
Court shall be hol-
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The Laws respec-
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CAP. VI.

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CAP. VI.

An ACT in Addition to, and Amendment of an Act made in the fifth Year of His present Majesty's Reign, intituled *An Act for the raising Money by Presentment on the several Counties in this Province, for the defraying certain County Charges therein mentioned.*

c. Geo. 3. c. 6.

HEREAS in and by an Act made in the fifth Year of His present Majesty's Reign, intituled An Act for the raising Money by Presentment on the several Counties in this Province for the defraying certain County Charges therein mentioned, it is among other Things Enacted, "That the several Grand Juries in each of the several Counties within this Province, either at the Court of Assize or General Sessions of the Peace held for such County, shall make Presentment of all such Sum and Sums of Money or Expences, that may be found to have arisen, or that may be necessary to be raised for the Purposes therein mentioned;" And Whereas the Grand Juries in some Counties in the Province, have neglected or refused to make such Presentment, to the great Detriment of the Public Good, Be it Enacted by the Lieutenant Governor, Council, and Assembly, That on the Neglect or Refusal of such Grand Juries to make Presentment as is directed in and by the afore recited Act, the Judges of Assize, or the Justices of the Peace in their General Sessions, shall, and they are hereby empowered to amerce the County in such Sum or Sums as it shall appear to them (upon due Proof made before them) to be necessary for defraying the Expences which have arisen, or shall be judged by them necessary to be raised, for the Use of the County; which said Sum or Sums shall be equally assessed on the Inhabitants of said County, according to their Ability, and paid into the Hands of the Treasurer of the County, for the Uses aforesaid; and the Judges or Justices aforesaid are hereby authorized and empowered to appoint three Assessors in each Township, for the assessing the Money aforesaid.

Preamble,

Upon the Neglect of the Grand Juries to make Presentment, the Judges of Assize or the Justices in General Sessions, shall amerce the County in such Sums as may be necessary to defray the County Charges,

to be assessed on the Inhabitants by three Assessors to be appointed in each Township.

II. And Whereas in and by the afore recited Act, it is also enacted, "That the Constables shall levy the Sum proportioned for each Town," which is found inconvenient, Be it enacted, That it shall and may be lawful for the respective Assessors, already appointed or to be appointed for any Town, to nominate and appoint one or more Collectors, to collect and receive all Sums of Money as have been or may be assessed pursuant to this or the said Act, and the said Collector or Collectors, when he or they shall have so collected and received the said Sums of Money, shall pay the same into the Hands of the County Treasurer, deducting for his or their Trouble in collecting the same, one Shilling in the Pound.

The Assessors shall appoint Collectors

Their Duty,

and Allowance,

III. And

Persons refusing to
serve as Assessors or
Collectors, forfeit
£5.

For the Use of the
County.

Seventeen Pounds
advanced out of the
Province Treasury,
to be repaid by the
County Treasurer.

III. *And be it also enacted*, That if any Person or Persons appointed Assessors or Collectors as aforesaid, shall refuse or neglect to serve as such, each and every such Person so neglecting or refusing, shall forfeit and pay the Sum of Five Pounds, to be levied, in default of Payment, by Warrant of Distress and Sale of the Goods of such Person or Persons, under the Hand and Seal of any two of His Majesty's Justices of the Peace for the County wherein such Person or Persons shall or may be appointed, returning the Overplus, if any be, to the Owner or Owners of the Goods so to be distrained and sold as aforesaid; and such Fine shall be paid to the Treasurer of such County, for the Use of the said County,

IV. *And Whereas the Sum of Seventeen Pounds has been paid out of the Province Treasury, for Payment of the Charges in bringing certain Prisoners from Windsor, to the Gaol of Halifax, Be it therefore enacted*, That the County Treasurer shall repay into the Province Treasury the aforesaid Sum of Seventeen Pounds, out of such Monies as shall be paid into his Hands by Virtue of this Act.

C A P. VII.

An ACT in further Addition to, and in amendment of An Act made in the Thirty Second Year of His late Majesty's Reign, intituled *An Act for preventing Trespasses.*

32 Geo. 2. c. 14:

Preamble.

*** *HEREAS* many Farms in this Province, are bounded by Rivers that are fordable at low Water; And Whereas it would be impracticable to make any Fence that would stand the Force of the Tides in such Rivers: And Whereas great Damage has been done to such Lands by Cattle running at large, and the Persons to whom such Cattle belongs could not, by Law, be prosecuted for a Trespass, as such Rivers are not deemed a sufficient Fence, Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That to all Farms which are bounded on Rivers where the Tide flows Eight Feet and upwards, at common Tides, such River so far up shall be deemed a sufficient and lawful Fence.

All Rivers shall be
deemed lawful
Fences, where the
Tide flows Eight
Feet and upwards.

Persons refusing to
serve as Overseers
of the Poor, shall
forfeit £5.

II. *And Whereas the Penalties inflicted by an Act intituled An Act for preventing Trespasses, upon Persons refusing to serve in the Office of Overseers of the Poor, are insufficient for the End and Design of the said Act, Be it Enacted*, That when and as often as any Person nominated as by the said Act is directed, shall refuse to serve the said Office, he shall forfeit and pay the Sum of Five Pounds.

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III. *And Whereas the Sums arising from the Penalties for not serving the said Office of Overseer of the Poor, are not appropriated, Be it enacted, That all such Sums of Money, as by Virtue of the said Penalties have been received, and now remain with the Clerk of the Supreme Court, and all such Sums of Money which may hereafter be received on Account of the said Penalties, shall be paid to the Overseers of the Poor, for and towards the Relief and Support of the Poor of the several Towns for which they shall be respectively appointed:*

Such Penalties to be for the Relief of the Poor.

C A P. VIII.

An ACT in Addition to an Act made and passed in the Thirty Third Year of His late Majesty's Reign, intitled An Act in Addition to An Act for regulating Petit Juries, and declaring the Qualification of Jurors.

33. Geo. 2. c. 9.

BE it enacted by the Lieutenant Governor, Council, and Assembly, That it shall and may be lawful for the Supreme Court, and the respective Inferior Courts and Sessions, on or before the last Day of their Sitzings in each Term, to draw from the Box or Boxes deposited with the respective Clerks, and containing the Rolls or Tickets of the Names of the Grand and Petit Jurors, such and so many Rolls or Tickets or Names, as may be sufficient to serve as Grand Jurors and Petit Jurors for the Term or Sitzings of the said Supreme Court and Sessions of the Peace, and of Petit Jurors for the said Inferior Court next ensuing the Term or Sitzings wherein the said Grand and Petit Jurors shall be so drawn as before directed.

The Juries to be drawn before the End of the Term, to serve at the next ensuing Term.

II. *And be it further enacted, That a Precept for summoning the said Grand and Petit Jurors, when so drawn, shall be signed by the Chief Justice of the Supreme Court, and First Justice of each Inferior Court and Sessions of the Peace; and that the said Precepts shall be filed in the said Courts by the respective Clerks.*

A Precept for summoning the Juries so drawn, shall be signed by the Chief Justice of the Supreme Court, &c.

III. *And it is hereby further enacted, That each and every of the Clerks of the said respective Courts shall, by Virtue of the said Precepts, ten Days before the Meeting of the then next ensuing Courts, issue out a Venire facias for summoning the said Grand and Petit Jurors, pursuant to the Tenor of the said Precepts, any former Law, Usage or Custom to the contrary notwithstanding.*

The Clerk of each Court shall issue a Venire facias, for summoning such Juries, ten Days before the Meeting of the next Court.

CAP IX.

An ACT to empower the Supreme Court, at their stated Sittings in the Town of Halifax, to try Offenders who may be guilty of Felonies in other Counties in this Province.

Preamble.

*** *HEREAS* it often happens that Persons are charged with
 *** *W* committing Felonies in many Parts of this Province, at a
 *** great Distance from the Town of Halifax, and in such Cases
 His Majesty's Governors have found it necessary and expedient to issue Commissions of Oyer and Terminer, and General Gaol Delivery, for the Trial of such Offenders in the proper Counties where such Offences have been committed: And Whereas it has been found by Experience, that the executing such Commissions in those Counties which are situated on the Sea Coasts, or to which there is no Communication by Land, has been attended with great Expence, in the Hire of Vessels to carry the Judges and the Officers of the Court, and for their Support; and the Uncertainty of Passages by Sea renders it very difficult to procure Jurors, and also to collect the Witnesses that may be necessary to be examined on the Trial of such Offenders, as the Inhabitants do not live together in any one Town or Place, but are settled in different Parts of the Country, many Miles distant from each other: In order therefore to remedy these Inconveniences, Be it enacted by the Lieutenant Governor, Council, and Assembly, When any Person or Persons shall be charged with any Felony, done or committed in any County situate on the Sea Coasts of this Province, or to which there is no Communication with the Town of Halifax by Land, that the Justice of the Peace before whom such Offender or Offenders shall be examined, shall commit such Offender or Offenders to His Majesty's Common Gaol for the County of Halifax, and shall bind the Witnesses by Recognizance, to appear and give Evidence against such Offender or Offenders, at His Majesty's Supreme Court, Court of Assize, or General Gaol Delivery next to be held for the County of Halifax.

Persons charged with Felonies, done in any County, to which there is no Communication by Land with the Town of Halifax, shall be committed to the County Gaol of Halifax, and the Witnesses bound to appear at the next Supreme Court at Halifax.

The Supreme Court held for the County of Halifax, empowered to proceed against such Offenders.

II. *And be it further Enacted*, That His Majesty's said Supreme Court, Court of Assize, or General Gaol Delivery, shall be and hereby is empowered to proceed to the Trial of such Offenders, in the same Manner as if the Felonies with which they are charged had been done and committed in the County of Halifax; and all Trials, Verdicts, Judgments, Executions, and other Proceedings whatsoever of the said Court, to be had thereupon, shall be and hereby is declared to be as good, valid, and effectual in the Law, to all Intents and Purposes whatsoever, as if the same had been in the County where such Felonies had been committed; any Law, Usage, or Custom to the contrary thereof in any wise notwithstanding.

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III. *Provided Nevertheless*, That nothing in this Act contained shall be of any Force or Effect until His Majesty's Pleasure shall be known therein.

This Act not to be in force until the King's Pleasure be known.

C A P. X.

An ACT in Amendment of an Act made and passed in the Seventh Year of His Majesty's Reign, intituled An Act for Partition of Lands in Coparcenary, Jointenancy, and Tenancy in Common, and thereby for the more effectual collecting His Majesty's Quit Rents in the Colony of Nova Scotia.

7. Geo. 3. c. 2;
2 Sess.

*** HERE AS the present Method of executing Writs of Partition, by the Provost Marshal's summoning the Jury to attend on the Lands, in order to view and make Division of the same, may be oftentimes attended with an Expence equal to, or exceeding the Value of the Premises; and may, in many Cases, be almost impracticable, from the Nature, Situation, and large Extent of the Lands to be divided, Be it therefore enacted by the Governor, Council, and Assembly, That it shall and may be lawful for the Provost Marshal or his Deputy, upon receiving any Writ of Partition, for dividing any Lands, to proceed to the Execution thereof, in any Place within the County where the Lands shall be, by a Jury of the said County, who shall accordingly make a Division of the same, agreeable to the Bounds expressed in the Grant, and the best Information that can be procured of the Value, Nature and Quality of the Lands; and such Division, so made, shall be as valid and effectual, to all Intents and Purposes whatsoever, as if the same had been made on the Spot; *Provided* that the said Division be made, in every other Respect, agreeable to the Laws in such Cases made and provided.

Preamble.

Upon Writs of Partition, Division may be made of any Lands by a Jury of the County in any Part of the County where the Lands shall be.

II. *And be it further enacted*, That nothing in this Act contained, shall be of any Force or Effect, until His Majesty's Pleasure shall be known therein.

This Act not to be in force, until the King's Pleasure shall be known.

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At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Twenty Eighth Day of *May*, Anno Domini 1765, in the Fifth Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain*, *France*, and *Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Tenth Day of *October* 1769, in the Ninth Year of His said Majesty's Reign, being the Eighth Session of the Fourth GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An Act in further Addition to an Act made in the 5th Year of His Majesty's Reign, intituled An Act for the raising Money by Presentment on the several Counties in this Province, for the defraying certain County Charges therein mentioned.

5. Geo. 3. c. 6.

WHEREAS it is highly necessary that some Provision be made for the building or repairing Bridges in this Province, Be it enacted by the Governor, Council, and Assembly, That from and after the Publication of this Act, it shall and may be lawful for the several Grand Juries in each of the several Counties within this Province, either at the Court of Assize, or General Sessions of the Peace, held for such County, to make Presentment, upon proper Representations made thereon by three or more Freeholders of the said County, or of their own Knowledge, of all such Sum and Sums of Money, or Expences that may have arisen, or that may be necessary to be raised, for the building or repairing Bridges within the same County.

Preamble.

The Grand Juries in each County, at the Court of Assize, or General Sessions of the Peace, shall make Presentment for such Sums as are necessary for the building or repairing Bridges.

II. And be it further Enacted, That the Sum or Sums of Money so presented shall be assessed, raised, levied, proportioned, paid in,

In what manner such Sums shall be assessed, &c.



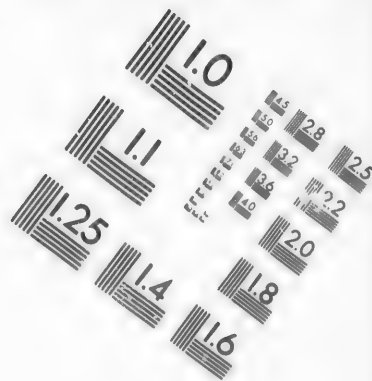
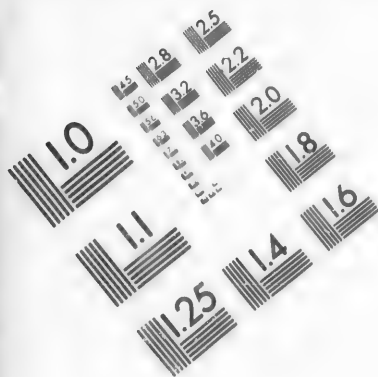
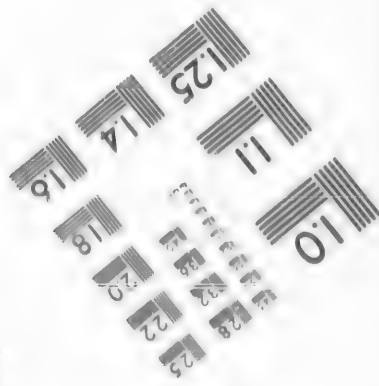
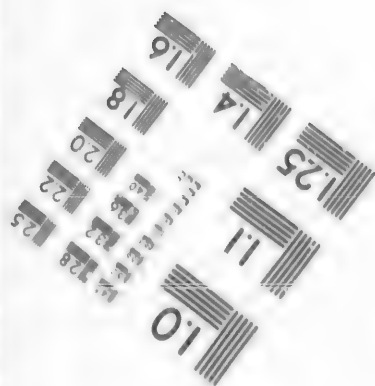
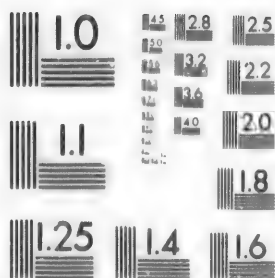


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in, and applied in manner as is prescribed and directed in and by an Act, made in the 5th Year of His Majesty's Reign, intituled *An Act for the raising Money by Presentment on the several Counties in this Province, for the defraying certain County Charges therein mentioned*; and by an Act made in the 8th Year of His Majesty's Reign, in Addition to and Amendment of the said Act.

5. Geo. 3. c. 6.

8. Geo. 3. c. 6.

2. Sess.

Upon the Neglect of the Grand Juries to make Presentment, the Judges of Assize, or Justices in General Sessions, shall amerce the County in the Sums necessary to be raised.

III. *And be it also further Enacted*, That on the Neglect of such Grand Juries to make such Presentment, the Judges of Assize, or Justices of the Peace in General Sessions, shall amerce the County in such Sum as shall appear to them to be necessary for the Purposes aforesaid; and shall appoint three Assessors in manner as is directed in and by the said last recited Act.

C A P. II.

An Act in further Addition to and Amendment of an Act, made in the Thirty Fourth Year of His late Majesty's Reign, intituled *An Act for appointing Commissioners of Sewers*.

34. Geo. 2. c. 7.

Preamble.

3. Geo. 3. c. 1.

2. Sess.

WHEREAS in the last Clause of an Act, made in the Third Year of His present Majesty's Reign, intituled *An Act* in Addition to, and Amendment of an Act intituled "*An Act for appointing Commissioners of Sewers*," made and passed in the 34th Year of His late Majesty's Reign; it is enacted, "That if any Proprietor or Proprietors of the Lands dyked in or drained, are absent, and no Person appearing in their behalf, and have not any Goods or Chattels to answer his, her or their Dividend or Proportion of such Assessment made as aforesaid, it shall and may be lawful for any one of His Majesty's Justices of the Peace for the County where such Lands lie, to let out any part of such Delinquent's Lands, that may be sufficient to pay, by the Produce of the same, any such Dividend or Proportion of the Sum so due;" But Whereas it has been found by Experience, that in many Instances it is impracticable to lease out the Lands of the Non resident and delinquent Proprietors, for defraying the Expences of dyking and draining, in manner as by the above recited Clause is directed, and therefore the whole Burthen and Charge thereof, has lain and does lie on a Part of the Proprietors, while the Lands of such Delinquents are enhanced in Value, without bearing any part of the Expence incurred for the Purpose aforesaid: For remedy whereof, Be it enacted by the Governor, Council, and Assembly, That if no Person shall appear to pay the Dividend or Proportion of any delinquent Proprietor, in any Assessment made according to Law, for the dyking or draining such Lands, or no sufficient Distress shall be found on the Premises to answer such Assessment as aforesaid, the Commissioners of

Lands of absent Proprietors may be sold, to pay their Proportion for dyking and draining the same, if no Distress can be found on the Premises, &c.

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of Sewers shall, by Advertisement, during three Months in the Public Prints, cause Notice to be given for the letting out the Lands of such delinquent Proprietor, and if no Person shall then appear to hire the same, it shall and may be lawful for the said Commissioners, or any three of them, to order the Provost Marshal or his Deputy, to sell at Public Auction, to the highest Bidder, so much of such Delinquent's Lands, so dyked in and drained, as may be sufficient to pay any such Dividend or Proportion of the Sum due as aforesaid, with the Charges; being first appraised on Oath by three Persons to be appointed by Warrant under the Hands and Seals of the said Commissioners; and the Provost Marshal or his Deputy is hereby fully impowered and directed, immediately to execute a Deed thereof, and deliver Seizin and Possession of the same to the Purchaser or Purchasers; (for which the said Provost Marshal or his Deputy shall receive a Fee of Ten Shillings and no more) any Law, Usage or Custom to the contrary notwithstanding.

II. *Provided always*, That any Person thinking himself aggrieved at any Sale, so made by the Commissioners in pursuance of this Act, may appeal to the *General Assembly* for Relief.

Persons aggrieved may appeal to the General Assembly.

C A P. III.

An Act in Addition to an Act, made in the Thirty Second Year of His late Majesty's Reign, intituled An Act to prevent unnecessary firing off Guns and other Fire Arms in the Town and Suburbs of Halifax.

32. Geo. 3. c. 25.

W *HEREAS* firing off Guns on or near the High Roads, may be attended with fatal Accidents by frightening of Horses passing by, and other bad Consequences, Be it enacted by the Governor, Council, and Assembly, That from and after the Publication of this Act, if any Child under fourteen Years of Age shall fire out of any Gun, Fusée or Pistol; or if any Person of what Age or Degree soever, shall unnecessarily fire out of any Gun, Fusée or Pistol, or other Fire Arm, within one hundred Yards of any Person, either on Horseback or in any Carriage within the Peninsula of Halifax; such Child or Person, their Parents, Guardians, or Masters, shall forfeit the like Sum as is inflicted by the aforesaid Act; and to be recovered, levied, and applied in like manner as is therein provided.

Preamble.

Penalty on Persons under fourteen Years of Age firing out of any Gun, &c.

or any Person firing within one hundred Yards of another, either on Horseback or in a Carriage within the Peninsula of Halifax.

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At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Sixth Day of *June*, 1770, in the Tenth Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. being the First Session of the Fifth GENERAL ASSEMBLY convened in the said Province:

C A P. I.

An ACT for the Settlement of the Poor in the several Townships within this Province.

WHEREAS it is necessary that the Poor in this Province should have some fixed Place of Settlement, to prevent their wandering about the Country, and that the Towns to which they do not properly belong, should not be put to the Expence of supporting them; Be it Enacted by the Governor, Council, and Assembly, That from and after the Publication hereof, no Town or Township within this Province, shall be obliged to maintain any poor Person or Persons, unless such Person or Persons be a Native of such Town or Township, or have served an Apprenticeship, or have lived as an hired Servant one whole Year, next before such Persons Application for Relief, or have executed some publick annual Office, or shall have been assessed and paid his or her Share of the Taxes for the Poor of such Place, or any publick Taxes during one whole Year, at one Time.

Eng. Stat. 43 Eliz.
cap 2.

Preamble.

Description of Persons intitled to be maintained.

II. And it is hereby declared and Enacted, That every Person within the said Descriptions shall be intitled to a Settlement in the respective Towns or Townships wherein such Person or Persons shall be so qualified as aforesaid.

and intitled to a Settlement.

III. And be it further Enacted, That any Person or Persons who shall apply to the Overseers of the Poor for Relief, not having obtained a lawful Settlement in the Township, shall be required to declare on Oath before one of His Majesty's Justices of the

Persons applying for Relief to declare their last Place of Residence.

Overseers of the Poor to remove Persons belonging to Township where they serve.

In default, 2 Justices by Warrant to cause such Persons to be removed,

And the Overseers to pay all Charges.

If such Overseers have not Money in their Hands, to stand charged therewith until next Assessment.

Two Justices to bind out Persons begging or strolling

Eng. Stat. 3. G. 4 Will. & Mary, cap. 11.

Poor old blind, lame, and impotent Persons, to be relieved by their Parents or Children,

In Manner as by Session shall be ordered.

Eng. Stat. 5 Geo. 1. cap. 8.

the Peace for the said Township or County wherein such Township shall be, his, her or their last place of Residence; and if they are found to have gained any lawful Settlement within this Province, a true Copy of the said Declaration, attested by the said Overseers of the Poor, and certified by the said Justice of Peace, together with the Amount of Expence incurred, shall be transmitted to the Overseer of the Poor of the Township to which the said Person or Persons shall belong, and in case they refuse or neglect to remove the said Person or Persons, and pay the Expences incurred, it shall and may be lawful for any Two of His Majesty's Justices of the Peace for the County or Township where such Person or Persons have become chargeable, by a Warrant under their Hands and Seals, to cause him, her, or them to be removed to the Township where they last obtained a lawful Settlement, and the Overseers of the Poor are hereby required to receive such Person or Persons, and to pay such Sum and Sums of Money as shall have been necessarily expended as aforesaid, to the Overseers of the Poor of the Township from whence such Person or Persons have been removed; *Provided always*, That in case such Overseer or Overseers of the Poor, shall not have Money in their Hands wherewith to answer said Expence, such Overseer or Overseers shall stand charged therewith, until the next Assessment to be made on the Township to which such poor Person shall belong.

IV. *And be it also Enacted*, That it shall and may be lawful for any two of His Majesty's Justices of the Peace, on Complaint of the Overseers of the Poor, to bind out any Person or Persons, who shall be found begging or strolling about, for any Term not exceeding one Year.

V. *And be it also further Enacted*, That the Father and Grand-Father, Mother and Grand-Mother, and the Children and Grand-Children, severally and respectively, of every poor, old, blind, lame, and impotent Person, or other poor Persons not able to work, being of sufficient Ability, shall at his, her, or their Charges and Expences, relieve and maintain every such poor Person as aforesaid, in such Manner as the Justices of the Peace at their *General or Quarter Sessions* shall order and direct, on the Penalty of forfeiting and paying Five Shillings for each Person so ordered to be relieved, for every Week they shall fail therein, to be sued for, levied and recovered in the usual Manner, and to be applied for the Use of the Poor.

VI. And Whereas it sometimes happens, that Persons run away, or abscond from their Places of Abode and legal Settlement, and leave their Wives and Families a Charge to the Public; although such Persons may have some Estate real or personal, whereby the Place might be eased in whole or in Part, which is most just and reasonable; *Be it therefore Enacted*, That it shall and may be lawful for the Overseer or Overseers of the Poor of any Township within

within the from, and absent from Charge; under the seize the Rents and Father, or the maintenance of Children shall be allowed or Quarter said Overseer the Care of the said order, and the tenance of

VII. *And* the Parentment in any Children, in the Parent

VIII. *And* Person or any Proceeding, Person, General or Quarter such Towns Persons shall be empowered Complaint, think equitable final and binding

An Act in an Act of His Majesty's Justices of the Peace for the Township

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within this Province, where any Husband or Father shall absent from, and forsake his Wife and Children, or any Widow shall absent from, and forsake her Children; and leave them a public Charge; to apply to two Justices of the Peace, and by Warrant under the Hands and Seals of the said two Justices, to take and seize the Goods and Chattels; and let out and receive the annual Rents and Profits of the Lands and Tenements of such Husband, Father, or Mother so absconding as aforesaid; for and towards the maintaining, bringing up, and providing for such Wife, Child, or Children so left as aforesaid, and so soon as the said Seizure shall be allowed of, and confirmed by the Justices in their *General* or *Quarter Sessions* of the Peace; it shall and may be lawful for the said Overseers, or any two of them from Time to Time, and as the Case may require, to sell and dispose of so much and so many of the said Goods and Chattels at Public Sale, to the highest Bidder, and to apply the Money arising thereby towards the Maintenance of such poor Family so left as aforesaid.

Lands, Tenements and Effects of Parents or Husbands leaving their Children or Wives, liable to be taken for their Maintenance.

Overseers of the Poor to apply to 3 Justices.

Seizure to be allowed by Sessions.

Overseers then to sell and dispose of Goods and Chattels for that Purpose.

VII. *And be it further Enacted*, That in case of the Death of the Parents of any Child or Children, who have gained a Settlement in any Township as aforesaid, all and every such Child or Children, shall be supported by such Town or Township wherein the Parents so gained a Settlement.

Children of Parents deceased, who have gained a Settlement, to be supported.

VIII. *And be it Enacted*, That if any Town or Township, or Person or Persons whatsoever, shall think themselves aggrieved by any Proceedings had in Virtue of this Act, such Town or Township, Person or Persons, may appeal for Redress to the next *General* or *Quarter Sessions* of the Peace held for the County wherein such Town or Township shall be, or wherein such Person or Persons shall reside; and the Justices thereof are hereby required and empowered to hear and determine all and every such Appeal or Complaint, and to give Redress as they in their Judgment shall think equitable, and such their Order and Judgment shall be final and bind all Parties.

Townships or Persons aggrieved may appeal to the Sessions.

C A P. II.

An Act in further Amendment of and Addition to an Act made in the third Year of His present Majesty's Reign, intituled *An Act to enable the several Townships within this Province to maintain their Poor*.

3 Geo. 3. cap. 7.

WHEREAS the restraining the Inhabitants of the several Townships in this Province, to meet only once a Year in order to make Provision for their Poor, is found very inconvenient; Be it Enacted by the Governor, Council, and Assembly, That

Preamble.

Inhabitants to hold two Meetings, if necessary, every Year, on 1st Monday of April, & 1st Monday in November. If Business not completed on those Days, to adjourn to one other Day.

If Money voted for Poor at first Meeting is not sufficient, the Freeholders may vote a further Sum.

Overseers to account to Sessions.

Assessment in all Townships (*Halifax* excepted) by five Freeholders.

In Case of Refusal of Freeholders to meet, & provide for Poor, the Justices in their General Sessions to amerce the Township.

Assessors refusing or neglecting to serve, to pay 40s.

and others appointed.

That from and after the Publication of this Act, it shall and may be lawful for the said Inhabitants to hold two Meetings annually, if necessary, to make Provision for their Poor, and that the Time for holding the said Meetings shall be on the first Monday in April, and on the first Monday in November, and in case the Business to be transacted at the said Meetings cannot be completed on the said Days, it shall and may be lawful for the Chairman, with the Consent of the Majority of the Freeholders then present, to adjourn the same to the Day following, or to one other Day; any Law, Usage, or Custom to the contrary in any wise notwithstanding.

II. *And be it also Enacted*, That if the Money voted for the Support of the Poor for the current Year should not be sufficient for that Purpose, the said Freeholders in such their next Meeting shall be, and they are hereby empowered to vote such further Sums as shall be thought necessary to make good such Deficiency.

III. *And be it further Enacted*, That the Overseers of the Poor shall for the future account on Oath, if required, before the *General Sessions* of the Peace held next after the Expiration of their Office, for all Monies raised and disbursed by them for the Support of the Poor.

IV. And Whereas the appointing twelve Assessors for assessing the Sums voted for the Support of the Poor, is in many respects found inconvenient: *Be it Enacted*, That for the future the said Assessments shall be made in the several Townships (*Halifax* excepted) by five Freeholders, and no more; any Law, Usage, or Custom to the contrary notwithstanding.

V. *And be it also Enacted*, That in case of the Neglect or Refusal of the Freeholders of any Township to meet and make Provision for their Poor, as is directed in and by this Act, the Justices of the Peace, in the *General Sessions* held for the County wherein such Township shall be, shall on the Application of the Overseers of the Poor, amerce such Township in such a Sum as shall appear to them to be necessary for the Purposes aforesaid, and shall appoint five Freeholders for assessing the same in the several Townships, (*Halifax* excepted) and the Sum so amerced shall be levied, paid, and applied for the Support of the Poor of such Township; and if the said Assessors so appointed shall refuse or neglect to serve in the said Office, they shall be subject to a Fine of Forty Shillings each, for the Use of the Poor, which shall, on Failure of Payment, be levied by a Warrant of Distress and Sale of the Goods and Chattels of the Person or Persons so refusing or neglecting, and others shall be appointed in their stead.

VI. And Whereas in and by an Act made in the Eighth Year of His present Majesty's Reign, intituled *An Act in further Addition*

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to, and Amendment of an Act made in the Third Year of His present Majesty's Reign, intituled *An Act to enable the Inhabitants of the several Townships within this Province to maintain their Poor*. The Fine imposed on the Overseers of the Poor for neglecting to issue their Precepts to the Constables of the several Townships, requiring them to notify the Inhabitants to meet on the Day appointed by the said Act, and make Provision for the Support of the Poor, is directed to be paid to the Treasurer of the Province; *Be it Enacted*, That the said Fine shall for the future be paid to the Treasurer of the County, for the Use of the Poor of the Township for which such Overseers so neglecting shall be appointed, and that the said Precept shall have respect to the Days appointed by this Act.

Fine on the Overseers of the Poor for neglecting to issue Precept for Meeting of the Inhabitants, to be paid to the County Treasurer.

Precept for notifying the Inhabitants to be agreeable to this Act.

VII. *And be it also Enacted*, That the Overseers of the Poor in every Township, shall enter their Proceedings in a Book to be kept for that Purpose, and at the Expiration of their Office, they shall deliver the same to their Successors.

Overseers of the Poor to enter their Proceedings in a Book.

C A P. III.

An Act to enable the several Counties within this Province to raise Money for Payment of their Representatives.

WHEREAS it is necessary that Provision should be made for defraying the Expence of the Attendance of the Representatives in General Assembly; *Be it Enacted by the Governor, Council, and Assembly*, That there shall be paid out of the Monies assessed, levied, and raised, in Manner as is hereinafter directed, to such of the Representatives as shall think proper to apply for the same, at the Rate of Five Shillings per Day for each Day during their Attendance in General Assembly, and for the same necessarily expended in the journeying to and from thence.

Preamble:

Such Representatives as apply for the same to have 5s. per Day during their Attendance, and coming and going.

II. *And be it also Enacted*, That the Grand Juries at the Courts of General Sessions of the Peace held for the several Counties in this Province, next after each Session of the General Assembly, shall make Presentment upon the Application of the Representatives serving for such County and the Townships within the same, or any of them (except such Townships as shall have Power to hold a Special Sessions of the Peace) of all such Sum and Sums of Money as shall appear to be due to such Representatives so applying, for so many Days at the Rate aforesaid, as shall be certified by the Speaker of the House of Assembly, to be due to them for their Services in General Assembly, and the said Sums shall be raised, levied, and paid in Manner and Form, as is directed in and by an Act made in the Fifth Year of His present Majesty's Reign, intituled *An Act*

Manner of raising, levying, & collecting Money for that Purpose.

for the raising Money by Presentment on the several Counties in this Province, for the defraying certain County Charges therein mentioned.

Townships who
hold Special Sessions
to raise Money for
such Townships.

III. *And be it Enacted*, That for such Towns as have or shall hereafter have Power to hold a *Special Sessions of the Peace*, the Grand Juries at such *Special Sessions*, shall present such Sums as shall be applied for by the Representatives serving for such respective Townships, and the Sums so presented shall be raised, levied, and applied in like Manner as if the same had been presented by the Grand Jury of the County.

Money to be paid
by County or
Township Treasurer
when received.

IV. *And be it further Enacted*, That the Sums so levied shall be paid by the Treasurers of the Counties, or of the Townships respectively, to such of the said Representatives as shall have applied for the same as aforesaid, on such Treasurer's receiving the said Monies from the several Collectors.

Collectors to pay
Money they collect
to the Treasurers in
one Month,

on Forfeiture of
40s.

to the Use of the
Poor.

V. *And be it also further Enacted*, That the several Collectors appointed as is directed in and by the aforesaid Act, shall within one Month after receiving the Assessment, collect and pay to the Treasurers aforesaid, the Sum specified in such Assessment, and if such Collector shall neglect so to do, he shall forfeit and pay the Sum of Forty Shillings, to be recovered by any one of the Parties injured thereby, on Complaint before any two of His Majesty's Justices of the Peace, and be paid to the Overseers of the Poor, for the Use of the Poor of the Township for which such Collector shall be appointed.

C A P. IV.

An Act for regulating the Commons belonging to the several Townships in this Province.

Preamble.

HEREAS it is necessary, that some Regulations should be made respecting the Tracts of Land set apart for Common, in the several Townships in this Province;

Justices in Sessions
to make Regulations
for the several
Townships in re-
spect to the Com-
mons.

I. *Be it Enacted by the Governor, Council, and Assembly*, That the Justices in their several *General Sessions of the Peace*, to be held for the several Counties in this Province, shall from Time to Time affix and settle such Regulations as they may think most proper and convenient to be observed and followed by the Inhabitants in the several Townships within such County, and such Regulations so made, affixed, and settled, shall be and are hereby declared to be the stated Rules to be kept, observed, and followed, by the Inhabitants of each respective Township, in regard to the Common belonging to the same.

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II. *And be it also Enacted*, That if any Person shall transgress any such Rules and Regulations so to be settled and affixed, or shall neglect or refuse to obey the same, such Person shall forfeit and pay a Fine not exceeding Forty Shillings for every such Offence, and in case such Offender shall refuse or neglect to pay the Fine, then it shall and may be lawful for any Two of His Majesty's Justices of the Peace, to grant a Warrant of Distress for levying the same in the usual Manner, one Half to be to the Person complaining, and the other Half for the Use of the Poor of the Township where the Offence shall be committed, and in default of such Distress, to commit such Offender for any Space not exceeding ten Days.

Penalty on such as transgress the Regulations so made;

how to be applied,

in default of Payment, to be committed to Goal.

C A P. V.

An Act for establishing the Rate of Interest.

 *E it Enacted by the Governor, Council, and Assembly*, That no Person or Persons whatsoever, upon any Contract which shall be made, shall take directly or indirectly, for Loan of any Monies, Wares, Merchandize, or other Commodities whatsoever, above the Value of Six Pounds, for the Forbearance of One Hundred Pounds for a Year, and so after that Rate for a greater or lesser Sum, or for a longer or shorter Time; and that all Bonds, Contracts, and Assurances whatsoever, for Payment of any Principal or Money to be lent or covenanted to be performed upon or for any Usury, whereupon or whereby there shall be reserved or taken above the Rate of Six Pounds in the Hundred as aforesaid, shall be utterly void, and that all and every Person or Persons whatsoever, which shall, upon any Contract to be made, take, accept, and receive, by Way or Means of any corrupt Bargain, Loan, Exchange, Chevizance, Shift, or Interest of any Wares, Merchandize, or other Thing or Things whatsoever, or by any deceitful Way or Means, or by any Covin, Engine, or deceitful Conveyance, for the forbearing or giving Day of Payment for One whole Year, of and for their Money or other Thing, above the Sum of Six Pounds for the forbearing of One Hundred Pounds for a Year, and so after that Rate for a greater or lesser Sum, or for a longer or shorter Time, shall forfeit and lose for every such Offence, the treble Value of the Monies, Wares, Merchandize, and other Things so lent, bargained, exchanged, or shifted; one Moiety thereof to be to the King's most Excellent Majesty, His Heirs and Successors, for the public Use of this Province, and the Support of the Government thereof, and the other Moiety to him or them that will sue for the same in any of His Majesty's Courts of Record in the same County where the Offence shall be committed, and not elsewhere, by Action of Debt, Bill, Plaint, or Information, in which no Essoign, Wager of Law, or Protection shall be allowed.

Eng. Stat.
37. Hen. 8. cap. 9.

No greater Interest than 6 per Ct. per Annum to be taken;

if more is taken, Bonds, Contracts, &c. to be void;

Persons who shall take more on any other Contract for Goods, &c.

to forfeit treble Value;

Application of the Penalty,

how to be recovered.

II. *Provided*,

Exceptions.

II. *Provided*, That nothing in this Act shall extend or be construed to extend to any Specialty, Hypothecation, Instrument or Agreement in Writing, that shall be made, entered into, or executed, for any Money lent or advanced, upon the Bottom of any Ship or Vessel, any Thing to the contrary notwithstanding.

Provide that all
'Contracts, &c.
upon Loan at In-
terest heretofore
made, shall be
good.

III. *Provided also*, That all Contracts and Agreements upon Loan at Interest upon any other Rate heretofore made than is prescribed by this Act, shall be good, valid, and effectual to all Intents and Purposes whatsoever, in the same Manner as if this Act had not been made.

C A P. VI.

An Act to alter the Manner of proceeding against certain Offenders, mentioned in an Act made in the 32d Year of His late Majesty's Reign, intitled *An Act for punishing Criminal Offenders.*

32. Geo. 2, cap. 20.

Preamble:

***** HERE AS in and by the fifteenth Section of an Act made
 W in the thirty second Year of His late Majesty's Reign, intitl'd
 ***** " An Act for punishing Criminal Offenders," certain
 Fines and Penalties are prescribed for Libels and other Offences therein mentioned; and whereas the Manner of prosecuting such Offenders has been found oppressive;

Manner of proceeding against Persons publishing Libels, &c. altered.

Be it Enacted by the Governor, Council, and Assembly, That for all such Offences as are recited in the Section aforesaid, the Party grieved shall not proceed against such Offenders before Justices of the Peace, but by Suit only, in any of His Majesty's Courts of Record, and that no other Penalties shall hereafter be inflicted for such Offences, except such as are usually inflicted in Courts of Record, in Cases of Criminal Prosecution for the same; any Thing in the said Section to the contrary notwithstanding.

Suit to be in a Court of Record.

C A P. VII.

An Act for altering the Times of holding the Courts of General Sessions, and Inferior Courts of Common Pleas at *Liverpool*, in the County of *Queen's County*.

Preamble:




















W HERE AS in and by an Act made in the seventh Year
 of His present Majesty's Reign, intituled An Act for regu-
 lating the Times and Places for holding the several
 Courts of Justice therein named; it is Enacted, That:

the

Courts of General Sessions of the Peace, and Inferior Courts of Common Pleas shall be held for Queen's County in the Town of Liverpool, on the First Tuesday of February, and on the Third Tuesday of September; and whereas the holding the said Courts at those Times has been found inconvenient;

Be it Enacted by the Governor, Council, and Assembly, That the said Courts shall be held for the future, on the Second Tuesday of April, and Second Tuesday of November, in every Year, any Law, Usage, or Custom to the contrary notwithstanding.

Courts of General Sessions of the Peace and Inf. Court of Common Pleas to be held at Liverpool on the 2d Tuesday of April, and 2d Tuesday of November.

C A P. VIII.

An Act for establishing the Toll to be taken at the several Grist-Mills in this Province.

Be it Enacted by the Governor, Council, and Assembly, That the Toll to be taken by every Miller for grinding Wheat, Rye, Barley, Oats, and Indian Corn, shall be One Sixteenth Part, and no more, to be ascertained by a sealed Measure.

Toll for Grinding Wheat, Rye, Barley, Oats, and Indian Corn, to be 1-16th.

II. And be it also Enacted, That if any Miller shall take any greater Toll than is herein directed to be taken, he shall forfeit and pay the Sum of Forty Shillings, to be paid to the Overseers of the Poor of the Township wherein the Offence shall be committed, or of the Township most contiguous thereto, for the Use of the Poor, and be recovered before two of His Majesty's Justices of the Peace, and the Amount of the Value of so much Grain or Meal as shall have been taken more than the Toll herein prescribed, shall also be recovered in like Manner.

Millers taking greater Toll, to forfeit 40s. For the Use of the Poor, and recovered before 2 Justices. Value of Grain taken more, to be recovered in like Manner.

III. Provided always, That no Miller shall be obliged to receive and grind any Corn or Grain which shall not be clean, dry, and in good Order.

Millers not obliged to grind Grain not clean, dry, and in good Order.

C A P. IX.

An Act for altering and amending an Act made in the first Year of His present Majesty's Reign, intituled *An Act for prohibiting the Exportation of Raw Hides, Sheep or Calf Skins out of this Province, other than for Great Britain; and to prevent the cutting, splitting, or flawing of Hides.*

1st Geo. 3. Cap. 12.

Preamble,

W *HEREAS* in and by an Act made in the first Year of His present Majesty's Reign, intituled An Act for prohibiting the Exportation of Raw Hides, Sheep or Calf Skins out of this Province, other than for Great Britain, and to prevent the cutting, splitting, or flawing of Hides; it is provided, That when the current Price of Raw Hides, such as Ox, Bull, Steer, or Cow, shall be under three Halfpence per Pound, the same may be exported to any of His Majesty's Plantations; which has proved a great Grievance.

Ox, Bull, Steer, or Cow Hides may be exported to the Plantations when the Price is 3d per lb. or under.

Be it Enacted by the Governor, Council, and Assembly, That from and after the Publication of this Act, it shall and may be lawful for any Person or Persons to export to any of His Majesty's Plantations, any such Raw Hides as abovementioned, when the Price of such Hides shall be three Pence per Pound or under.

C A P. X.

An Act for the Benefit of the Fishery on the Coasts of this Province.

Preamble.

W *HEREAS* it is apprehended that the frequent Scarcity of Fish on the Banks near the Shores of this Province, may be occasioned by Fishermen throwing into the Sea the Offal of the Fish they kill; For Remedy whereof,

No Heads, Bones, or other Offal of Fish to be thrown into the Sea within 3 Leagues of the shore.

Master to forfeit £5.

Conviction before One Justice, or by his own View.

I. Be it Enacted by the Governor, Council, and Assembly, That from and after the Publication hereof, if any Fisherman in any Vessel, Bark, or Boat, shall presume to throw into the Sea within three Leagues of any of the Shores of this Province, any Heads, Bones, or other Offal of the Fish they may take, the Master of such Fishing Vessel, Bark, or Boat, shall, upon due Conviction thereof, by the Oath of one credible Witness, before any one of His Majesty's Justices of the Peace, or by the View of the said Justice, pay for each and every such Offence the Sum of Five Pounds.

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II. *And be it further Enacted*, That all Penalties incurred and arising by this Act, shall be applied one Moiety to the Person who shall inform and sue for the same, the other Moiety to be paid into His Majesty's Treasury for the Use of the Province, the same to be levied by Distress and Sale of the Offender's Goods and Chattels, together with the Charges of such Distress and Sale, rendering the Overplus (if any be) to the Owner or Owners thereof.

Half to the Person
informing and sue-
ing, Half to His
Majesty for the Use
of the Province.

III. *Provided nevertheless*, That nothing in this Act shall extend to the debarring any Fishermen in Boats, who split and dress their Fish on Shore, from throwing the Offal of their Fish into what is called the Land-Wash.

Boats who split and
dress Fish on Shore,
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At the GENERAL-ASSEMBLY of the Province of *Nova-Scotia*, begun and holden at HALIFAX, on the Sixth Day of *June*, Anno Domini 1770, in the Tenth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great-Britain, France, and Ireland*, King, Defender of the Faith, &c. and there continued by several Prorogations until the Fifth Day of *June*, Anno Domini 1771, in the Eleventh Year of His said Majesty's Reign, being the Second Session of the Fifth GENERAL-ASSEMBLY convened in the said Province.

C A P. I.

An ACT in Addition to an Act, made in the Thirty Second Year of His late Majesty's Reign, intitled *An Act relating to Wills, Legacies, and Executors, and for the Settlement and Distribution of the Estates of Intestates.* 32d. Geo. 2. Cap. 11.

WHEREAS it is necessary that the Governor, Lieutenant Governor, or Commander in Chief, as Judge of Probate of Wills and Testaments, and granting Letters of Administration, or their Commissaries or Judges of Probate appointed by them for that Purpose, should be armed with Authority to punish those Persons who refuse or neglect to attend at their Courts upon due Citation. Preamble.

I. Be it Enacted, by the Governor, Council, and Assembly, That the Governor, Lieutenant Governor, or Commander in Chief as Judge of Probate or their Commissaries, or Judges of Probate by them appointed for that Purpose, be and are hereby fully authorised to call before him or them, and to require and administer an Oath unto any Person or Persons probably suspected by any Executor or Administrator, Heir, Creditor, Legatary, or other Person, having lawful Right or Claim to, or in such Estate to have concealed, imbezzled, or conveyed away, any Money Goods, or Chances left by the Testator or Intestate, for the Discovery of the same, and in Case any such suspected Person was intrusted by the Deceased, attended upon, or was otherwise conversant with, or near unto him

Judges of Probate authorized to call before them all Persons suspected of having Estates belonging to Testator or Intestate.

may commit to
Goal such as refuse.

at the Time of his Sickness, or left in the Possession of the Estate, where by to strengthen and make the Suspicion more violent, and shall refuse to acquit him or herself upon Oath, it shall and may be lawful for the said Judge of Probate, or his Commissary, or Surrogate, to commit such Person so refusing to swear unto the Goal of the County, there to remain until he or she shall comply to discharge himself or herself upon Oath as aforesaid, or otherwise be released by Consent of the Executors or Administrators, Heir, Creditors, Legatary, or other Person, having Right or Claim to, or in such Estate.

When Estate insolvent, Distribution to be made as far as Effects will extend.

Appraisement to be made.

Commissioners to be appointed to examine Claims of Creditors.

Notice given to all Persons to bring in their Claims.

Saving unto the Widow Right of Dower.

II. And whereas great Difficulties have attended the Distribution of insolvent Estates; in Order to remedy the same, Be It Enacted, That when the Estate of any Person deceased, shall be insolvent, or insufficient to pay all just Debts, which the Deceased owed, the same shall be set forth and distributed to and among all the Creditors, in Proportion to the Sums to them respectively owing, so far as the said Estate will extend, saving that the Debts due to the Crown, the Expence of Sickness and necessary Funeral Charges of the Deceased are to be first paid, and the Executor or Administrator appointed to any such insolvent Estate, before Payment to any be made (except as aforesaid) shall represent the Condition and Circumstances thereof unto the Judge of Probates, who shall nominate and appoint two or more fit Persons to make a true and equal Appraisement of such Estate, and administer an Oath unto them for that Purpose; and appoint two or more fit Persons to be Commissioners with full Power to receive and examine all Claims of the several Creditors, and how they are made out, and such Commissioners shall cause the Times and Places of their Meeting to attend the Creditors for the receiving and examining of their Claims to be made known and published, by posting up the same in some publick Places in the Shire Town of that County, where such deceased Person last dwelt, or publishing the same in the publick News Papers, Three, Six, Twelve, or Eighteen Months (as the Circumstances of any Estate may require) shall be allowed by the Judge unto the Creditors for bringing in their Claims, and proving their Debts; at the End of which limited Time such Commissioners, shall make their Report, and present a List of all the Claims unto the said Judge, who shall order them meet Recompence out of the Estate for their Care and Labour in that Affair, and the Debts due to the Crown, Expence of Sickness, and necessary Funeral Charges as is herein before provided, being first deducted, shall order the Residue and Remainder of the Estate to be paid, and distributed to and among the other Creditors, that shall have made out their Claims in due Proportion to the Sums unto them respectively owing, according as the Estate will bear. Saving unto the Widow if any be, her Right of Dower according to Law in the Houses and Lands of the Deceased. The Widow's Dower at the Expiration of her Term

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to be also distributed among the Creditors in a-like Proportion; and no Judgement of Law (except for Debts due to the Crown, Expence of Sickness and Funeral Charges) shall be allowed against the Executors or Administrators of any insolvent Estate, so long as the same shall be depending; and if any Creditor shall not make out his or her Claim, before such Commissioners within the limited Time, such Person shall be for ever after debarred of his or her Debt, unless he or they can find some further Estate of the Deceased not before discovered and put into Inventory.

Saving unto any Person aggrieved at any Sentence, Order, or Decree made by the Commissary or Judge of Probate, Liberty of Appeal unto the Governor and Council, such Appellant giving Bond in a reasonable Sum with sufficient Security to prosecute his Appeal with Effect, and to abide and perform the Determination, that shall be made thereupon.

III. And be it further Enacted, That when the Goods and Chattels belonging to the Estate of any Person deceased, shall not be sufficient to answer the just Debts, which the Deceased owed, upon Representation thereof, certified under the Hand of the Judge of Probate with his Seal of Office to the Supreme Court, the said Court are hereby empowered to license, and authorize the Executors or Administrators of such Estate to make Sale of all, or any Part of the Houses and Lands of the Deceased, so far as shall be necessary to satisfy the just Debts, which the Deceased owed at the Time of his Death, and Legacies bequeathed in and by the last Will and Testament of the Deceased, and every Executor and Administrator being so licensed and authorized as aforesaid, shall and may by virtue of such Authority make, sign, and execute in due Form of Law, Deeds and Conveyances of such Houses and Lands, as they shall so sell, which Instruments shall make a good Title to the Purchaser, his Heir and Assigns for ever.

IV. Provided always, That the last Clause touching the Sale of real Estate, and Application to the Supreme Court, shall not be in Force 'till His Majesty's Pleasure therein is known.

C A P. II.

An ACT in Amendment to an Act, made in the Thirty Second year of His late Majesty's Reign, intituled *An Act declaring what shall be deemed a Publication of the Province Laws.*

Be it Enacted by the Governor, Council and Assembly, That for the Future, Notice being given in the Nova Scotia Gazette, or other publick News Paper, or by affixing such Notice on the Church Door at Halifax, that

No Judgment of Law to be allowed, except for Debts due the Crown, &c.

If Creditor does not make out Claim within limited Time, they are debarred.

Appeal by any Person aggrieved to the Governor & Council.

When Goods and Chattels not sufficient to answer Debts, Representation to be made to the Supreme Court for Licence to sell Lands.

32 Geo. 2. Cap. 27.

Notice given in the Nova-Scotia Gazette or other News Paper, or affixing on Church Door the Title.

To be deemed a
Publication.

any Law of the Province was passed in *General Assembly*, inserting the Title thereof, shall be deemed and is hereby made a full and proper Publication of such Law, any Thing in the above-recited Act to the contrary notwithstanding.

C A P. III.

32. *Geo. 2. Cap. 13.*
34. *Geo. 2. Cap. 9.*
8. *Geo. 3. Cap. 3.*

Eng. Stat.
21. *Jac. 1. Cap. 26.*

An ACT in further Addition to an Act made in the Thirty Second Year of His late Majesty's Reign, intituled, *An Act relating to Treasons and Felonies.*

Felony for any Per-
son to be Bail in a-
nother Man's
Name.

§ It Enacted by the Governor, Council and Assembly, That any Person or Persons who shall before the Judges of the Supreme Court, or other Judges, or other Persons empowered by Law to take Bail, or Bails, represent or personate any other Person or Persons, whereby the Person or Persons, so represented, or personated, may be liable to the Payment of any Sum or Sums of Money, for Debt or Damages, to be recovered in the same Suit or Action wherein such Person or Persons are represented or personated, as if they had really acknowledged and entered into the same, being lawfully convicted thereof, shall be adjudged, esteemed, and taken to be Felons, and suffer the Pains of Death, and incur such Forfeitures and Penalties as Felons in other Cases convicted and attainted do, by the Laws of England, loose and Forfeit.

C A P. IV.

An ACT for altering the Times of holding the Courts of *General-Sessions* and *Inferior Court of Common-Pleas* at *Annapolis*, in the County of *Annapolis*.

Preamble.

§ WHEREAS in and by an Act, made in the Seventh Year of his present Majesty's Reign, intituled an Act for regulating the Times and Places for holding the several Courts of Justice therein named, It is Enacted, That the Courts of General-Sessions of the Peace, and Inferior Courts of Common-Pleas, shall be held for the County of Annapolis, in the Town of Annapolis, on the Third Tuesday of January, and on the Second Tuesday of September,

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September; and whereas the holding the said Courts at those Times has been found inconvenient:

Be it Enacted by the Governor, Council, and Assembly, that the said Courts shall be held for the future, on the first Tuesday of April, and the first Tuesday of November in every Year, any Law, Usage or Custom to the contrary notwithstanding.

Courts of General Sessions of the Peace and Inferior Court to be held at Annapolis on 1st Tuesday of April, and 1st Tuesday of November.

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C A P. V.

An ACT in further Addition to an Act made in the Thirty Second Year of His late Majesty's Reign, intituled, *An Act for preventing Trespasses.*

32. Geo. 2. Cap. 14.

{8} *HEREAS* it has been found impracticable to keep up and maintain Fences of four feet and an half high, on the Peninsula of Halifax, especially such as are made of Stones, whereby the Proprietors of fenced Lands suffer great Damage by Trespasses, and are unable to recover the same in Law.

Preamble.

I. Be it therefore Enacted by the Governor, Council and Assembly, That all Fences on the Peninsula of Halifax, Four Feet in Height shall be adjudged a good and sufficient Fence to prevent Trespasses; and any Damage done within any Inclosure so fenced, shall be recoverable in Manner as is directed by an Act, intituled *An Act for preventing Trespasses.*

Fences on the Peninsula of Halifax to be 4 Feet high.

II. And be it further Enacted, That the Justices of the Peace for the County of Halifax, shall, and are hereby empowered in their Quarter Sessions of the Peace, to make Regulations for preventing Trespasses by Horses, Swine, Sheep, Goats and neat Cattle going astray, in Manner as shall be most agreeable to the Circumstances of such County or Townships therein, and enforce the same by the like Penalties as the Justices of the Peace in other Counties at their General Sessions of the Peace are empowered to do.

Justices of Peace in Sessions to make Regulations for preventing Trespasses.

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C A P. VI.

An ACT for the more effectually securing the Title of Purchasers against Claims for Dower.

{8} *HEREAS* some Doubts have arising concerning the Conveyance of Dower by the Wife in her husband's Life Time in the Manner and Form now in Practice, in Order therefore to prevent any Doubts that may hereafter arise touching the same.

Preamble.

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Wife assigning
Dower to be Exa-
mined before a Jus-
tice of the Peace.

Justice to certify on
the Deed.

Nothing in this
Act to affect any
Deed before made.

I. Be it Enacted by the Governor, Council and Assembly, That where a Sale shall be made of Lands or Tenements by the Husband and his Wife, before such Deed shall be valid and sufficient to bar the Wife from the Recovery of her Dower after the decease of her Husband, she shall be examined by One of His Majesty's Justices of the Peace, whether she hath done the same freely, voluntarily and without Compulsion from her Husband, and if before such Justice she shall declare, that she hath Freely and Voluntarily signed such Deed, and therein Assigned her Right of Dower, the Justice shall accordingly certify such Acknowledgments on the Deed, which shall for ever Bar her from the Recovery of her Right of Dower to such Lands so Conveyed.

II. Provided always, That nothing in this Act contained, shall any Ways affect any Deed or Conveyance of Land heretofore made.

C A P. VII.

10. Geo. Cap. 3.

An Act in Addition to, and Amendment of an Act, made in the Tenth Year of His present Majesty's Reign, intituled, *An Act to enable the several Counties within this Province to raise Money for Payment of their Representatives.*

HER E A S some Doubts have arisen whether it was the Meaning and Intent of the Legislature by the Act made in the Tenth Year of his present Majesty's Reign, intituled, *An Act to enable the several Counties within this Province to raise Money for Payment of their Representatives,* That the several Counties at large should be assessed, for the Payment of the Representatives serving for the Townships within such County.

I. Be it Enacted and declared, by the Governor Council and Assembly, That it was, and is the Intention of the Legislature, that such Representatives should be paid by the Towns they Represent.

II. And be it Enacted, That the Money assessed for the Purpose aforesaid, shall by the Collector appointed to collect the same, be paid to the Representative applying therefor, within One Month after receiving the Assessment, on Pain of the Forfeiture prescribed by the afore-recited Act, for Default of paying said Money to the Treasurer of the County.

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And whereas no Provision is made by the afore-recited Act in Case the Grand Juries neglect or refuse to make Presentment of the Sum due to such Representatives, as shall apply for the same,

III. Be it Enacted, That on the Neglect or Refusal of the Grand Juries to make Presentment as aforesaid, the Justices of the Peace in General Sessions, shall amerce the County for the Sum, which shall appear to be due to the County Members so applying, and amerce the Town for which such Member so applying shall serve, for the Sums, which shall appear to be due to them respectively for the Purposes aforesaid, and the Justices aforesaid are hereby authorised and empowered, in which Case to appoint three Assessors in each Township, for assessing the Money aforesaid, who shall appoint a Collector to levy the same in Manner as is directed by the aforesaid Act.

In case Grand Jury neglect or refuse to make Presentment for the Sums due to the Representatives applying the Justices in Sessions, shall amerce the Counties or the Towns.

C A P. VIII.

An A C T for altering amending an Act, made in the Thirty Second Year of His late Majesty's Reign, Intituled *An Act, relating to the of Assize Bread and for ascertaining the Standard of Weights and Measures.*

32. Geo. 2. Cap. 21.

4. Geo. 3. Cap. 5.

2. Session.

6. Geo. 3. Cap. 5.

1. Session.

7. Geo. 3. Cap. 4.

1. Session.

**** E it Enacted by the Governor, Council and Assembly, That from after the Publication of this Act, it shall
* B * and may be lawful for any Three of His Majesty's Justices
**** of the Peace (such Justices being appointed by the Sessions, within the several Towns of this Province) to make Monthly an Assize of Bread made for Sale, according to the Prices the several Kinds of Flour shall be imported for at such Times, agreeable to the under-mentioned Table of Assize of Bread; and that the Household or good Brown Bread shall weigh half a Pound more for Six Pence, than white Bread, and so in Proportion for any greater or lesser Quantity made, publick Notice of which Assize so made, shall be affixed by the Clerks of the Market in the most publick Place in every Town.

Three Justices to make monthly an assize of Bread and publick notice thereof to be given by the Clerks of the Market.

II. And be it also Enacted, that it shall and may be lawful, for the Clerks of the Market appointed in each Town, and they are hereby directed to examine all Bread made for Sale, and to seize all such Bread as shall be found under the Weight and Assize fixed agreeable to this Act, and the same shall be delivered to the overseers of the Poor, for the Use of the Poor of the Town where the Offence shall be Committed.

Clerks of the Market to Examine all Bread made for Sale.

III. And

III. And be it also further Enacted, that when the Price of good sound inspected Wheaten fine Flour, shall be at or under Twelve Shillings the one Hundred and Twelve Pounds, averdupoise,

General affize of
Bread,

The Six Penny Loaf of the same shall weigh	-	-	4lb.
When from Twelve to Thirteen Shillings inclusive	-	-	3 8
When from Thirteen to Fourteen Shillings inclusive	-	-	3 4
When from Fourteen to Fifteen Shillings inclusive	-	-	3
When from Fifteen to Sixteen Shilling inclusive	-	-	2 14
When from Sixteen to Eighteen Shillings inclusive	-	-	2 10

Any Law, Usage or Custom to the contrary thereof notwithstanding.

C A P. IX.

An A C T for altering an Act made in the Ninth Year of His present Majesty's Reign, intituled, an Act in further Addition to, and Amendment of an Act, made in the Thirty Fourth Year of His late Majesty's Reign, intituled *An Act for appointing Commissioners of Sewers.*

Preamble.

WHEREAS in the Second Section of an Act, made in the Ninth Year of His present Majesty's Reign, intituled an Act in further Addition to, and Amendment of an Act, made in the Thirty Fourth Year of His late Majesty's Reign, intituled *An Act for appointing Commissioners of Sewers.* It is provided, that any Person thinking himself aggrieved at any Sale made by the Commissioners of Sewers in Pursuance of the said Act, may appeal to the General Assembly for Relief.

And whereas great Inconveniences and Delays have arisen, to Persons so aggrieved, by an Appeal to the General Assembly, therefore to remedy that Inconvenience and prevent such Delays for the future.

I. Be it Enacted by the Governor, Council and Assembly, That all such Appeals as by the afore-recited Section of the said Act, are to be made to the General Assembly by any Person thinking himself aggrieved at any sale made by the Commissioners of Sewers as aforesaid, shall from and after the Publication hereof, be made to the Governor, Lieutenant Governor or Commander in Chief for the Time being, and His Majesty's Council, who are hereby authorized, and empowered to take Cognizance thereof, and to proceed thereon in like manner as by the before recited Clause of the said act should have been done by the General Assembly.

Appeals in case of
Sale of Land by
Commissioners of
Sewers to be made
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At the GENERAL-ASSEMBLY of the Province of *Nova-Scotia*, begun and holden at HALIFAX, on the Sixth Day of *June*, Anno Domini 1770, in the Tenth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great-Britain, France, and Ireland*, King, Defender of the Faith, &c. and there continued by several Prorogations until the Ninth Day of *June*, Anno Domini 1772, in the Twelfth Year of His said Majesty's Reign, being the Third Session of the Fifth GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT for altering the Times of holding the Courts of *General Sessions and Inferior Court of Common Pleas* at *Horton* in *King's-County*. 7 Ann. 30
179. 5.

WHEREAS in and by an Act made in the seventh Year of His present Majesty's Reign, intituled, An Act for regulating the Times and Places for holding the several Courts of Justice therein named, Preamble.
It is Enacted, That the Courts of *General Sessions of the Peace and Inferior Courts of Common Pleas*, shall be held for *King's County* in the Town of *Horton*, on the last Tuesday of *May*, and the first Tuesday of *October*; And whereas the holding the said Courts on the last Tuesday of *May* has been found inconvenient, Be it Enacted by the Lieutenant-Governor, Council and Assembly, That the said Courts shall be held for the future on the First Tuesday of *June*, and the First Tuesday of *October*, in every Year, any Law, Usage or Custom to the Contrary notwithstanding. Courts to be held at
Horton 1st Tues-
day June and 1st
Tuesday October.

C A P. II.

An ACT for empowering the Justices of the Peace for the County of *Sunbury*, to hold Courts of *General Sessions of the Peace at Warrington*, on the Island of *Campo-Bello* in the said County, for the said Island, and for the District of *Passamaquoddy*, comprehending the Islands within the said District.

Preamble.

Courts of General Sessions to be held at *Warrington* on Tuesday's of *June* and *October*.

XXXX WHEREAS the Want of Roads and regular Ferries, and the Distance between the County Town and the District of *Passamaquoddy* makes the Attendance of Persons resident in the said District at the General Sessions of the Peace held for the said County at the County Town very inconvenient; For Remedy whereof, Be it Enacted by the Lieutenant Governor, Council and Assembly, That Courts of General Sessions of the Peace, shall and may be held and kept at *Warrington*, on the said Island of *Campo-Bello* for the said Islands and the District of *Passamaquoddy* in the County of *Sunbury* on the first Tuesday of *June* and first Tuesday of *October* in every Year, and any two or more Justices for the County of *Sunbury*, residing within the said Island and the District of *Passamaquoddy*, shall and may hold the said Courts; and such Courts shall have, hold, use, exercise and enjoy, all and singular the Powers, which are by Law already given and granted unto Courts of General Sessions of the Peace, so far as relates to all such Matters and Things as shall be cognizable by such Courts within the said Islands and District of *Passamaquoddy* in the County of *Sunbury*.

C A P. III.

An Act declaring what shall be deemed Merchantable Timber for Exportation to *Great-Britain*.

Preamble.

WHEREAS the improving and securing the Lumber Trade from this Colony to *Great-Britain*, will be highly beneficial, not only to the Mother Country, but also to this Province, and whereas certain Regulations relating to the Exportation of Square Timber are found to be necessary;

I. Be it therefore Enacted by the Lieutenant Governor, Council

and Assembly, that the same is to be done, and by directed, other, for the Exportation per Ton and

II. And Bargain shall be made, the Market, the reflections of shall be observed, first made for

An Act to Eleven to enable raise Merchantables.

XXXXX

I. Be it and Assembly, sent Majesty's Counties within of their Revenue Year of His Majesty of the said Act contained be, and

II. Proviso shall be of a shall be known

cit and Assembly, That no Hewn Timber shall be deemed merchantable, or offered for Sale for the British Market as such, unless the same is Sound, properly squared, and not less than Ten Inches Square, and free of Bark, and the Surveyors of Lumber are hereby directed to Survey, measure and mark the same, and none other, for the British Market, before the same shall be shipped for Exportation, for which such Surveyor shall receive *Three Pence* per Ton and travelling Charges.

No hewn Timber shall be deemed merchantable or offered for sale unless sound, &c. Surveyors of Lumber directed to survey, measure and mark no other for British market.

II. And be it further Enacted, That where any Contract or Bargain shall be made for any Quantity of Timber for the British Market, the same shall be understood to be according to the Directions of this Act, and no Merchant or Trader in Lumber shall be obliged to take any other, unless by particular Agreement first made for the same.

Where Contract is made for Timber for British market, to be understood to be according to directions of this Act.

C A P. IV.

An Act to repeal two Acts, made in the Tenth and Eleventh Years of his present Majesty's Reign, to enable the several Counties in this Province to raise Money for Payment of their Representatives.

10. Geo: 3d. c. 9.
11. Geo: 3d. c. 7.

***** WHEREAS several Inconveniences and Difficulties have attended the carrying into Execution the Acts made to enable the several Counties and Townships in this Province, to raise Money for Payment of their Representatives.

Preamble.

I. Be it Enacted, by the Lieutenant Governor, Council and Assembly, That an Act made in the Tenth Year of His present Majesty's Reign, intitled, an Act to enable the several Counties within this Province to raise Money for Payment of their Representatives; and an Act made in the Eleventh Year of His said Majesty's Reign in Addition to, and Amendment of the said Act, and every Clause, Matter and Thing therein contained be, and the same are hereby repealed.

Two Acts for payment of Representatives repealed.

II. Provided always, That nothing in this Act contained, shall be of any Force or Effect until his Majesty's Pleasure therein shall be known.

This Act not to be of force till his Majesty's pleasure be known.

CAP. V.

C A P. V.

32d. Geo. 2d. c. 2.
34th. Geo. 2d. c. 4.
1. Geo. 3d. c. 3.
4. Geo. 3d. c. 8.

An ACT in further Amendment of, and in Addition to an Act, made in the thirty second Year of His late Majesty's Reign, intituled, *an Act for confirming Titles to Lands and quieting Possessions.*

Preamble.

XXXX WHEREAS the great Extent of this Province, and the Difficulties attending the bringing Deeds and Conveyances from the several distant Counties and Towns within the same, to Halifax, to be registered, made it expedient and necessary for the Registers of Deeds to appoint Deputies in such Counties and Towns, and whereas it will greatly contribute to the Ease and Convenience of the Inhabitants that such Deputations be continued.

Register of the Province to appoint one or more Deputies in the several Counties.

W Deed is lost the copy from the Registry shall be allowed as evidence.

W Deed is lost the copy from the Registry shall be allowed as evidence.

An Extra & Certificate of all Deeds registered to be transmitted to the Registrar's Office at Halifax, within a Peninsular of Nova Scotia, in three Months and to the Northward of said Peninsula in six Months.

I. Be it Enacted by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for the Register of this Province, to appoint one or more Deputies in the several Counties within the same, such Person being approved by the Governor, Lieutenant Governor, or Commander in Chief; and all Registers and Proceedings thereon, relating to the conveying of any Lands, Tenements or Hereditaments within the Limits of such Deputations, shall be, and they are hereby declared authentic and valid, and if any original Deed which may hereafter be registered by the Deputy Registers, shall be lost, and Proof thereof in Court being made, that then the Registry or Record of such Deed or Deeds shall be allowed to be good Evidence in any Court of Law or Equity within this Province.

II. And be it also Enacted, That where Deputy Registers shall be appointed, all Deeds or Conveyances shall be registered in the Office of the County or District within which, such Lands do lie.

III. Provided always, and be it also Enacted, That an Extra & Certificate of all Deeds and Conveyances, touching any Lands or Hereditaments, which shall be registered or recorded by such Deputies as aforesaid within the Peninsula of Nova Scotia, shall once in Three Months be transmitted to the Register's Office at Halifax, and of all Deeds and Conveyances, touching any Lands or Hereditaments, lying to the Northward of the said Peninsula, within Six Months after the Registry of such Deeds and Conveyances, and the Register of Deeds at Halifax, shall note the Time of his receiving the Certificate, and duly enter the same in the Registry at Halifax, which shall be as effectual as if the original Deed had been by him first registered, as well for those which



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At the GENERAL-ASSEMBLY of the Province of *Nova-Scotia*, begun and holden at HALIFAX, on the Sixth Day of *June*, *Anno Domini* 1770, in the Tenth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great-Britain*, *France*, and *Ireland*, King, Defender of the Faith, &c. and there continued by several Prorogations until the Twelfth Day of *October*, *Anno Domini* 1773, in the Thirteenth Year of His said Majesty's Reign, being the Fifth GENERAL-ASSEMBLY convened in the said Province.

C A P. I.

An A C T to empower the Province Treasurer to issue other Notes in Exchange for such Notes as have been issued heretofore, in Virtue of the several Loan Acts made by the *General-Assembly* of this Province, and are defaced and worn.

 *HEREAS* it has been represented, that several Persons who now possess Notes for Sums borrowed in Pursuance of the several Loan Acts made by the *General Assembly* of this Province, labour under great Inconvenience by Reason that many of the said Notes are defaced and worn, and some would prefer to have large Notes in lieu of a Number of small Ones, or to have the same exchanged, For Remedy whereof,

I. Be it Enacted by the Governor, Council and Assembly, That the Treasurer of the Province be, and he is hereby empowered and directed, on Application made to him for that Purpose, to take up and receive all such Notes for Money borrowed as aforesaid, and in Lieu thereof to give Receipts in the Form

The Treasurer to take up and receive Notes defaced and worn, and to give receipts in form following.

PROVINCE

PROVINCE NOVA-SCOTIA the Day of

" **R** ECEIVED of the Sum of for the Use and
 " Service of the Province of *Nova-Scotia*, and in Behalf
 " of said Province, I do hereby promise and oblige myself, and suc-
 " cessors in the Office of Treasurer to repay the said or
 " Order the Day of the afore said Sum of
 " with Interest at the Rate of Six Pounds per *Centum* per *Annum*.

" This Note being in Lieu of worn and defaced Notes hereto-
 " fore issued from the Treasury, amounting to the like or same
 " Sum and now cancelled. Witness my Hand.

Or in the following Form, at the Option of the Person who
 shall bring in such Notes or Receipts to be exchanged.

PROVINCE of *Nova-Scotia* the

" **R** ECEIVED of the Sum of for the Use and
 " Service of the Province of *Nova-Scotia*, and in Behalf
 " of said Province, I do hereby promise and oblige myself and
 " Successors in the Office of Treasurer, to repay the said
 " or Bearer the Day of the afore said Sum of
 " with Interest, at the Rate of Six Pounds per *Centum* per *Annum*.

" This Note being in Lieu of worn and defaced Notes here-
 " tofore issued from the Treasury, amounting to the like or same
 " Sum, and now cancelled. Witness my Hand.

Such Notes to bear
 interest.

II. And be it further Enacted, That all Receipts so issued
 by the Treasurer of the Province, shall, according to the Tenor
 thereof, bear an Interest at the Rate of Six Pounds per *Centum* per
Annum, and so in Proportion for a greater or lesser Sum, and all
 such Receipts so given, shall be dated on the Day following the
 Day to which the Interest due on such Notes or Receipts brought
 in as afore said was paid.

Notes brought in,
 to be cancelled in
 presence of Persons
 to be appointed by
 the Governor.

III. And be it also further Enacted, That all Notes brought
 into the Treasury as afore said, and for which Receipts shall be
 given in Pursuance of this Act shall be cancelled in Presence
 of such Persons as shall be appointed by the Governor, Lieutenant
 Governor, or Commander in Chief of the Province and all new
 Notes issued in Pursuance of this Act, shall be counter-signed by
 them, or at least two of them.

When Notes are
 brought in to be
 exchanged, the In-
 terest to be calcu-
 lated to the day
 the new Note is is-
 sued, and not in-
 cluded in new Note
 issued.

IV. And be it Enacted, That when Notes of different
 Dates are brought to the Treasury to be exchanged for new
 Notes, the Interest in that Case shall be calculated upon each
 Note to the Day the new Note shall be dated, and the Treasu-
 rer shall pay said Interest and not include such Interest in any
 new Note so issued.

CAP. II.

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CAP. II.

An ACT for the rating and levying the Expenses attending the executing Writs of Partition.

HEREAS Difficulties may arise in the Recovery of the Charges and Expenses attending the executing Writs of Partition, unless the same is enforced by Law;

Preamble

I. Be it Enacted, by the Governor, Council and Assembly, That all Accounts of Charges and Expenses, which have already arisen, or which may hereafter arise, for the obtaining and executing Writs of Partition for the Division of Lands in any Township or Place in this Province, until final Judgment thereon, together with the Charges for Surveying the said Lands, and all other incident Expenses relative thereto, shall be laid before his Majesty's Supreme Court, and when the same shall have been approved by the said Court, two or more proper Persons shall be appointed by the Court to assess the Amount thereof, in due Proportion on each several Share allotted and assigned to each and every Proprietor, and be levied out of the Profits and other extendible Goods and Chattels thereon, or belonging to such Proprietor or Person in Possession of the same, or any Part thereof, and shall be paid to the Person or Persons appointed by the Court to receive the same.

All Accounts of charges on obtaining writs of partition to be laid before the Supreme Court, and when approved, two or more assessors to be appointed.

amount to be levied out of the profits &c. of Proprietor or person in possession of lands, and paid to person appointed by the Court.

II. And be it Enacted, That if any Proprietor or other Person in Possession of any Land allotted and assigned as aforesaid, shall refuse or neglect to pay the Sum assessed as his Dividend or Proportion of the Charges aforesaid. It shall and may be lawful for any one of his Majesty's Justices of the Peace, on Complaint of the Receiver appointed as aforesaid, to issue a Warrant of Distress and Sale of the Delinquent's Goods and Chattels for the Recovery of the Sum so assessed with the Charges of Prosecution.

If Proprietor or person in possession refuses or neglects to pay sum assessed, the same may be levied by distress.

III. And be it also Enacted, That in Case no Person be resident on any Lands allotted and assigned as aforesaid, nor any Goods and Chattels thereon, whereby the Sum due as aforesaid may be levied, it shall and may be lawful for any one of his Majesty's Justices of the Peace to let out any Part of such Delinquent's Lands as may be sufficient to pay, by the Produce of the same, any such Dividend, Proportion or Charge so due, and in case no Person shall offer to hire the same, such Lands shall be held chargeable therewith.

In case no person resident on lands nor goods or chattels thereon where by assessment may be levied, the lands to be let or held chargeable.

C A P. III.

An ACT in further Amendment of an Act, made in the First Year of his present Majesty's Reign, intituled, *An Act for repairing and mending Highways, Roads, Bridges and Streets, and for appointing Surveyors of Highways within the several Townships in this Province.*

1 Geo. 3. cap. 14.
3 ————— 2.

Preamble.

***** *HEREAS in the second Section of an Act, made in the*
W *first Year of his present Majesty, intituled, an Act for re-*
 ***** *pairing and mending Highways, Roads, Bridges and*
Streets, and for appointing Surveyors of Highways within the se-
veral Townships in this Province; certain Forfeitures are directed
to be paid by such Persons as shall neglect to attend on their Duty
in Manner therein set forth, for the Repairs of the Highways,
Roads, Streets or Bridges, which said Forfeitures are directed to
be recovered by warrant of Distress from one of his Majesty's Jus-
tices of the Peace; and whereas it is thought more expedient that
such Forfeitures should be recovered as Actions of Debt or Trespass
are recoverable according to the Value thereof:

All forfeitures for neglect to attend for repairing and mending Highways &c. to be recovered as Debts are before one or more Justices.

I. *Be it Enacted, by the Governor, Council and Assembly,*
 That all such Forfeitures as aforesaid, shall be sued for by the Surveyors of Highways in like manner as Debts of the like Value are sued for, and recovered before one or more Justices, any Thing in the said afore-recited Act to the contrary notwithstanding.

II. *And whereas it is a great Hardship on poor labouring Men and other poor Persons to be obliged to labour at said Highways, Roads and Streets, during the whole of the Six Days appointed by the afore-recited Act,*

Be it Enacted, That upon Application to two of his Majesty's Justices of the Peace, the said Justices shall, and may in their Discretion lessen the Number of Days Labour to be performed by such Men as cannot without Detriment to their Families attend the same.

Two Justices may lessen number of days labour by poor Persons.

Persons who keep Carts, &c. tho' exempted from labouring by age to send their Carts, &c.

III. *And be it also Enacted,* That all Persons keeping Carts, Teams, and Trucks, who by being Sixty Years Old or upwards, are exempted from labouring themselves on the said Highways or Roads, shall nevertheless send their Carts, Teams or Trucks, to assist in making or repairing the same.

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IV. And be it also further Enacted, That any one of his Majesty's Justices of the Peace, shall and may on his own View, or on the Oath of one credible Witness, impose a Fine, not exceeding Twenty Shillings, on any Person who shall encumber or stop up the way in any of the Roads or Streets in this Province, by laying Timber, Wood, Carts, Trucks or any other thing thereon, to be recovered by Warrant of Distress and Sale of the Offenders Cattel and Chattels, or in Case such Offender shall not be known or found, the same shall be recovered by Sale of so much of the Timber or Wood, and the Carts, Trucks or other thing encumbering or stopping the Way in such Road or Street as aforesaid, and be paid to the Overseers of the Poor for the Use of the Poor of the Town or Place where, or nearest the Place where the Offence shall be committed, rendering the overplus, if any be, to the Owner when found. And if the said Nuisance shall continue, the same shall be deemed a new Offence, and shall be prosecuted, and liable to the Penalty aforesaid.

Penalty for encumbering or stopping Roads or Streets.

C A P. IV.

An A C T to further explain and amend an Act made in the Thirty Second Year of his late Majesty's Reign, intituled, *An Act for making Lands and Tenements liable to the Payment of Debts.*

***** HEREAS in the First Section of an Act made in the
 * W * Thirty Second Year of his late Majesty's Reign, intituled,
 ***** An Act for making Lands and Tenements liable to the
 Payment of Debts; It is among other things Enacted, "That
 " when any Estate shall be found by the Appraisers to be of
 " greater Value than the Debt and Cost, the Creditor or Creditors
 " shall be obliged at the Expiration of Thirty Days next after
 " the End of the said two Years, (if not sooner redeemed) to
 " give public Notice by Advertisement, that the Lands or Tenements
 " so extended, are to be sold at public Auction by the Provost
 " Marshal or his Deputy." And Whereas Doubts have arisen
 in what Manner Notice of such intended Sale should be given,
 It is hereby Declared and Enacted, by the Governor,
 Council and Assembly, That it is the Intention of the Legislature,
 that Notice of any Sale as aforesaid shall be published by the
 Provost Marshal or his Deputy as aforesaid shall be published in the
 Nova-Scotia Gazette or other public News-Paper, and in some
 public Place in the Township or other Place where the Lands lie,
 at least three several Times during three Months before such Sale.

Preambles.

Notice of Sale of
 Lands by Provost
 Marshal to be in
 Nova-Scotia Gazette
 or other News-Paper
 and posted up in or near
 some public Place
 where Lands lie.

II. And *Whereas by the Second Session of the afore-recited Act, It is Enacted*, "That in case the yearly Rents of the Lands or Tenements of the Debtor are not sufficient to satisfy the Debt with Costs and Interest, together with the Charge of needful Repairs, within the space of two Years, then the Execution shall and may be levied on Part of such Estate." And *Whereas great Detriment has arisen to Persons by the levying the Execution in such Cases, in such Manner as to render the Remainder of the Estate of little Value, to the great Prejudice of the Debtor; for Remedy whereof*, Be it Enacted, That whenever an Execution shall be levied as aforesaid, on a part of the real Estate of the Debtor, there shall be Five Appraisers, fit and discreet Men, two to be chosen by the Debtor, two by the Creditor, and one by the Provost Marshal or his Deputy, who shall be sworn to do equal Justice between Debtor and Creditor in valuing the same, and shall set off so much thereof as they shall think sufficient to satisfy the Debt with Costs and Interest, with as little Injury as may be to the Debtor and to the Remainder of the said Estate, so as to prevent any such Grievance as aforesaid; any Law Usage or Custom to the contrary in any wise notwithstanding.

when Execution levied on part of real Estate, five appraisers shall set off so much thereof as shall be sufficient to satisfy debt and cost, with as little injury as possible to the remainder.

III. And *Whereas no Provision is made in and by the afore-recited Act, for the Relief of Femmes Covert, Persons non Compos Mentis, imprisoned, or in Captivity, Minors or Persons out of the Province, to sue for Recovery of any Lands or Tenements so sold, to which they are intitled*, Be it Enacted, That nothing in the said Act, nor any thing therein contained, shall extend or be construed to extend, to bar the Title of any Minor, Feme Covert, or Person non Compos Mentis, imprisoned, or absent from the Province, but they shall be intitled to sue for, and recover any Lands or Tenements within this Province, to which they are intitled, within Six Years after such Impediment shall be removed, any thing in the said Act to the contrary in any wise notwithstanding.

Minors, &c. may recover lands within six Years after impediment removed.

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At the GENERAL-ASSEMBLY of the Province of *Nova-Scotia*, begun and holden at HALIFAX, on the Sixth Day of *June*, Anno Domini 1770, in the Tenth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great-Britain*, *France*, and *Ireland*, King, Defender of the Faith, &c. and there continued by several Prorogations until the Sixth Day of *October*, Anno Domini 1774, in the Fourteenth Year of His said Majesty's Reign, being the Fifth GENERAL-ASSEMBLY convened in the said Province.

C A P. I.

An Act in Amendment of and explain an Act made in the Tenth Year of His present Majesty's Reign, 10 Geo. 3. cap. 5. intituled, *An Act for establishing the Rate of Interest.*

HEREAS in an Act made in the Tenth Year of His present Majesty's Reign, intituled, An Act for establishing the Rate of Interest, it is among other Things Enacted, that no Person or Persons whatsoever, upon any Contract which shall be made, shall take directly or indirectly for Loan of any Monies, Wares, Merchandize, or other Commodities whatsoever, above the Value of Six Pounds for the Forbearance of One Hundred Pounds for a Year; and whereas doubts have arisen how far the Words Wares, Merchandize or other Commodities, may be extended, to fix the Offence of Usury, upon any Person or Persons who have heretofore, or may hereafter let or hire out any Grain, Stock of Cattle, Horses, Cows, Oxen, Heifers, Sheep or Swine, at a Rate exceeding the Sum of Six per cent per Annum upon the Value thereof.

Preamble.

I. Be it Enacted by the Governor, Council and Assembly, That
D 5 from

After Publication of this Act it shall be lawful for any Person to contract and agree for the loan or hire of Cattle, &c.

from and after the Publication hereof, it shall and may be lawful for any Person or Persons to contract and agree for the Loan or Hire of any Quantity of Grain and Number of Cows, Horses, Oxen, Heiffers, Sheep, Swine or any other kind of Stock of Cattle or Grain upon Halves or otherwise, as the Lender or Hirer may agree, upon the Lenders taking the Risk of all such Cows, Horses, Oxen, Heiffers, Sheep, Swine or any other Kind of Live Stock upon himself, unless it doth or can be made appear, that the said Stock so lent, perished, and was lost thro' the wilfull Neglect of the Borrower, or that the said borrower sold or converted the said Stock to his own Use, in which Case the Borrower shall make good to the Lender the full Value thereof; and that such Dealings was not, nor shall be accounted Usury.

And whereas great Benefit and Advantage has accrued to many Persons from the hiring Grain and Cattle from Persons, who may have inadvertently let out, or lent the same to them, in a Manner which by some may be deemed Usury.

Prosecutions commenced for Cattle Grain lent and not on usurious Contracts to cease.

II. *Be it Enacted*, That all Prosecutions or Complaints which may have been commenced for Grain, or Cattle Hired or Lent, and which have not yet been lawfully determined shall cease and be no further prosecuted, *Provided*, such Complaint or Prosecution shall relate only to the Hire or Borrowing Grain or Cattle, and not to usurious Contracts for Money lent within the Meaning of this Act.

And whereas there is no Time limited in the said Act, wherein the Offence or Offences so prohibited shall and may be prosecuted.

All Prosecutions to be brought within Twelve-months.

III. *Be it Enacted*, That all Prosecutions hereafter to be brought for any Offence already done or committed, or which may hereafter be done or committed against the said Act, shall be brought by the Person or Persons aggrieved, or by any Person who may sue for the same within twelve Months for the Time the Offence was committed: and it shall and may be lawful for any Person or Persons, who shall think themselves aggrieved by any Judgment of any Inferior Court, to bring his Writ of Error, or Appeal to His Majesty's Supreme Court.

Persons aggrieved at any judgment of Inferior Court to bring Writ of Error or Appeal to Supreme Court.

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C A P. II.

An Act to impower the Province Treasurer to borrow a Sum, not exceeding the Sum of Four Hundred Pounds, for paying off the Debt incurr'd by making Bridges, and opening the Road to *Truro* in the County of *Halifax*.

HERE AS the Duties arising from the Act made in the Eighth Year of His present Majesty's Reign, intituled, "An Act for suppressing Unlicensed Houses, and granting to His Majesty a Duty on Persons hereafter to be Licensed," were appropriated for making Highways, Roads and Bridges, and keeping the same in Repair; and whereas the aforesaid Fund has been found insufficient to answer the present Demands for making and repairing Roads into the Interior Parts of the Province.

Preamble.

I. Be it therefore Enacted, by the Governor, Council and Assembly, That the Treasurer of the Province be, and he is hereby impowered and directed to borrow from such Person or Persons as shall be willing to lend the same, a Sum not exceeding the Sum of Four Hundred Pounds, and the Sum so borrowed shall be applied in Manner as in this Act is hereafter directed, and for any Sum or Sums so borrowed, the Treasurer aforesaid shall give his Receipt or Obligation, in the Form, and Manner following.

The Treasurer to borrow £400.

and give his Receipt or obligation.

Province *Nova-Scotia* the Day of

" **R** ECEIVED of the Sum of for the Use and Service of the Province of *Nova-Scotia*, and in Behalf of said Province, I do hereby promise and oblige myself and Successors in the Office of Treasurer to repay the said or Order the Day of the aforesaid Sum of with Interest at the Rate of Six Pounds per Centum per Annum, " Witness my Hand,

Form of the Receipt or obligation.

Or in the following Form, at the Option of the Person lending the Money, or that shall be otherwise intituled thereto pursuant to this Act.

Province *Nova-Scotia* the Day of

" **R** ECEIVED of the Sum of for the Use and Service of the Province of *Nova-Scotia*, and in Behalf of the said Province, I do hereby promise and oblige myself and Successors in the Office of Treasurer, to repay the said or " Fearer

" Bearer the day of the aforesaid Sum of
 " with Interest at the Rate of Six Pounds per Centum per Annum,
 " Witness my Hand,

Such Receipts to
 bear Interest at 6
 per Cent.

II. *And be it also Enacted*, That all Receipts so issued by the Treasurer of the Province, shall according to the Tenor thereof, bear an Interest at the Rate of Six Pounds per Centum per Annum, and so in proportion for a greater or lesser Sum, and the Treasurer is hereby directed to give his Receipt or Receipts for any Sum or Sums; provided the same be not less than Five Pounds, at the Option of the Lender or Persons intitled to the same.

Application of the
 Money borrowed.

III. *And be it also further Enacted*, That the Sum so borrowed shall be applied to the Payment and Discharge of the Debt incurr'd in making Bridges and opening the Road to Truro in the County of Halifax.

Treasurer to re-
 ceive the Governor's
 Orders or Warrants
 as Cash.

IV. *Provided always*, That if the Province Treasurer shall, (by Scarcity of Money) not be able to borrow the Sum intended by this Act, that then and in such Case any Person or Persons, who shall produce any Orders or Warrants from the Governor for the Payment of the Debt incurr'd as aforesaid, such Orders or Warrants shall be received by the Treasurer, who is hereby directed to give his Receipt or Receipts for the Sum or Sums therein specified, bearing Interest in Manner herein directed.

Interest to be paid
 annually until the
 Principal is dis-
 charged.

V. *And provided always, and be it Enacted*, That if there shall not be Money sufficient in the Treasury to discharge the several Receipts so issued, when the same becomes payable, that then and in such Case the Treasurer is hereby authorized and directed to pay off the Interest as the same becomes annually due, out of such Monies as may then be in his Hands arising from the Duties aforesaid.

Receipts issued by
 the Treasurer to be
 entered at the Se-
 cretary's Office and
 signed by Secretary
 of the Province.

VI. *Provided also, and be it Enacted*. That all Receipts to be issued by the Treasurer of the Province, in Pursuance of this Act, shall be entered at the Secretary's Office, and be signed by the Secretary of the Province, before they are issued from the Treasury.

VII. *And whereas for the better securing the Payment of the principal and interest of the money so borrowed, the several Acts relating to the Duty on Licensed Houses are continued to the Thirty First Day of December, One Thousand seven Hundred and Eighty.*

Monies arising from
 Licenses to be ap-
 plied towards pay-
 ment of interest and
 Principal of the
 Money borrowed &
 Repair of Roads.

Be it Enacted, That the Monies arising by the Operation of the said Acts shall be applied towards the Payment of the Interest and Principal of Money borrowed by this Act, as well as for Repairs of such Roads as it may hereafter be found necessary to amend.

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C A P. III.

An Act to prevent Waste and Destruction of Pine or other Timber Trees, on certain reserved and ungranted Lands in this Province.

HEREAS His Majesty has been pleased to reserve, and set apart several Tracts of Land within this Province, for the special Purpose of securing to the Crown, a Perpetual Fund for the Supply of Masts and Ship Timber for the Royal Navy, particularly all those Lands on St. John's River above the present Settlements, and the Island of Cape Breton.

Preamble.

In Order therefore, that the same be effectually secured against any Waste or Trespass.

I. *Be it Enacted, by the Governor, Council and Assembly, That if any Person shall spoil, cut down, or any otherwise injure, or destroy any Pines of any Dimensions whatever, or any other Timber Trees, growing on the afore-recited reserved and ungranted Lands, or shall cause the same to be done, or shall cut down, or carry off any Tree fit for a Mast, from the said Premises for every Tree so cut or carried off, and for each and every Offence, or without having first obtained a License therefor, from the Governor, Lieutenant Governor, or Commander in Chief, for the Time being, certifying that the said Pine Trees, and Timber so to be cut, are for the sole Use of His Majesty and for no other Purpose. All such Persons being duly convicted of the Waste and Trespass aforesaid, he or they shall forfeit and pay to His Majesty a Fine not exceeding One Hundred Pounds on due Conviction thereof, before any of His Majesty's Courts of Record, in any County within this Province, by Action of Debt, Bill, Complaint, or Information, one Half of the said Fine to be paid to the Informer, the other Half to His Majesty for the Use of the Province.*

If any Person spoil, cut down or destroy &c. any Pines or other Timber growing on reserved and ungranted Lands, or carry off any Timber.

unless by License from the Governor certifying that the same is for his Majesty's use.

Such Person being convicted thereof.

shall pay a Fine not exceeding £100. to be recover'd in any Court of Record.

II. *And be it further Enacted, That if such Offender on due Conviction, shall be unable to pay such Fine, that it shall and may be lawful for such Court, before which the Conviction shall be made to imprison such Offender, for the Space of Six Months without Bail or Mainprize.*

Offender unable to pay Fine shall be imprisoned Six Months. without Bail.

III. *And Whereas the setting fire to any Wood Lands, is often attended with great Destruction of Timber Trees and otherwise destroys and prevents their Growth; Be it Enacted, by the Authority aforesaid, That if any Person shall purposely & maliciously set fire to any Places within the Limits of the afore said reserved & ungranted Territories, and thereby destroy any of the young Growth, or Timber Trees thereon, upon due Conviction before his Majesty's Supreme Court, Court of Assize and General Goal Delivery, such*

If any Person shall purposely and maliciously set fire to any place within the limits of reserved and ungranted Territories, and thereby destroy Timber, &c.

on Conviction shall
suffer as a Felon.

Crime shall be adjudged Felony, and such Person so convicted shall suffer as a Felon.

This Act not to extend to Firewood & underwood used in the Fishery and within half Mile of Sea Shore.

IV. *Provided*, That nothing in this Act shall be construed to extend to such Fire Wood and underwood as is commonly used in the Fishery, and shall be within Half a Mile of the Sea Shore.

C A P. IV.

An Act for admitting Depositions *de bene esse*, of Witnesses aged, Infirm, and otherwise unable to travel, and of Witnesses departing from the Province.

When it shall happen that Witnesses in a Cause are infirm, aged or unable to travel, or obliged to leave the Province.

One of the Judges on due Notice given to adverse Party may take the Deposition of such Witnesses, which shall be Sealed up and directed to the Court where Cause is to be tried.

Oath to be made of Notice given to adverse Party.

If such Witness is in the Province or able to travel testimony *viva voce* required.

Saving benefit of exceptions to the Credit of such Witnesses.

Quakers allowed to make Affirmation.

***** *Be it Enacted, by the Governor, Council and Assembly,*
* B * That when it shall so happen that any of the Witnesses
* * * which shall be judged necessary to be produced on the
***** Trial of any Cause between Party and Party, shall be infirm, aged, or otherwise unable to travel, or when any such Witness or Evidence is obliged to leave the Province, it shall and may be lawful for any One of the Judges of the Court where the Cause is to be tried, on due Notice given to the adverse Party to be present (if he sees fit) to take the Deposition of such Infirm or aged Person, or Persons unable to travel, or who is obliged to leave the Province, and such Depositions so taken and certified under the Hand and Seal of the said Judge and sealed up, and directed to such Court, shall be received as legal Evidence in such Cause.

II. *Provided*, That Proof be made on Oath, that due Notice was given to the adverse Party of the Time and Place of taking such Depositions.

III. *And provided nevertheless*, That if such Witnesses shall at the Time of the Trial of the Cause, be in the Province, or able to travel, they shall be required to give their Testimony *viva voce*, at such Trial, in the same Manner, as if such Depositions had not been taken.

IV. *Provided also*, That all Benefit of Exceptions to the Credit of such Deponents shall be reserved in the same Manner as on producing Witnesses for Examination, *viva voce*, at the Trial.

V. *And be it Enacted*, That every Person of the Profession of the People called Quakers, who shall be required to take an Oath as aforesaid, shall instead of an Oath be permitted to make his or her Solemn Affirmation.

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VI. *And be it also Enacted*, That every Person who shall have made such Oath or Solemn Affirmation, and shall be convicted of wilfully, falsely and corruptly having sworn or affirmed any thing, shall incur the same Penalties as Persons convicted of wilful and corrupt Perjury.

Person convicted of Swearing or affirming falsely to incur Penalties as for perjury.

C A P. V.

An Act for punishing Rogues, Vagabonds, and other idle and disorderly Persons.

Act 7th, Geo. 2. cap. 5.

Enacted, by the Governor, Council and Assembly,

B That all Soldiers belonging to His Majesty's Troops in this Province, or Seamen or Mariners belonging to any of His Majesty's Ships or Vessels, who shall be travelling or wandering within the said Province, and shall not have a Pass from the Commanding Officer of the Regiment, Company or Ship or Vessel, to which they belong; and all idle and wandering Persons, who shall not have a Pass, or Testimonial from some Justice of the Peace, setting forth, the Place from whence such Soldier, Seamen or Mariner, or such other idle and wandering Person shall have come, and the Place to which they are to pass; every such Soldier, Mariner or Seaman or other Person, shall be deemed idle and disorderly Persons, and shall be proceeded against, as is herein after directed.

All Soldiers belonging to his Majesty's Troops Seamen or Mariners belonging to his Majesty's Ships or Vessels not having a Pass from their Commanding Officer.

All idle and wandering Persons not having a Pass from a Justice of Peace,

shall be deemed idle and disorderly Persons.

II. *And be it also Enacted*, That all Persons who run away, or threaten to run away, and leave their Wives or Children upon any Township, and all Persons who unlawfully return to such Township, or Place from whence they have been legally removed by order of two Justices of the Peace, without bringing a Certificate from the Township whereunto they belong, and all Persons who not having wherewith to maintain themselves, live idle and refuse to work for the usual Wages, and all Persons going about to beg Alms, shall be deemed idle and disorderly Persons; and it shall be lawful for any Justice of Peace to commit such Offenders (being convicted by his own View or by Confession, or by the Oath of one credible Witness) to prison, or to the House of Correction, there to be kept to hard Labour for any Time, not exceeding one Month.

All Persons who run away or threaten to run away and leave their Wives, &c. on any Township, or Persons unlawfully returning to Places from whence they have been removed, and other idle Persons, and Persons begging Alms, deemed idle and disorderly Persons, and shall be committed to Prison or House of Correction.

III. *And be it also further Enacted*, That it shall be lawful for any Person to apprehend Offenders against this Act, and convey to some Justice of Peace, the Persons so apprehended, to be proceeded against as is herein after directed, and in Case any Constable or other such Officer refuse or neglect to use his best Endeavours

Lawful for any Person to apprehend Offenders.

If Constable or other such Officer refuse or neglect to apprehend them deemed a neglect of Duty and punished. If any Person being charged by a Justice where no Officer can be found refuse or neglect to apprehend such Offender to forfeit 10s.

If any Person not being a Constable apprehend Deserters or idle wandering Servants, &c. and deliver him to Constable or convey to a Justice; or Constable so apprehend such Deserter &c.—to be rewarded by such Justice.

Justices receiving information that Deserters or idle Persons are in any Place within their Jurisdiction shall issue a Warrant for a Search.

Proceedings in regard to Persons apprehended.

deavours to apprehend or convey to the some Justice any such Offender, it shall be deemed a Neglect of Duty, and he shall be punished as is herein after directed; and in Case any other Person charged by any Justice so to do, refuse or neglect to use his best Endeavours to apprehend and deliver to the Constable, or such other Officer, or to carry such Offender before some Justice, where no Officer can be found being convicted upon View, or by the Oath of one Witness before a Justice, he shall forfeit Ten Shillings to the Use of the Poor of the Township, to be levied by Distress and Sale of Goods by Warrant from any Justice, and in Case any Person not being a Constable or Officer, apprehend any Deserter or idle wandering Servant, or other Person, and deliver him to a Constable or convey him to a Justice, or if any Constable so apprehend and convey such Deserter or idle wandering Servant, or other Person, it shall be lawful for such Justice to reward any such Constable or other Person, by making an Order under his Hand and Seal on the Treasurer of the County to pay Ten shilling to the Person so apprehending him on producing such Order and giving a Receipt, and the Justices at the *General Sessions*, shall allow the same to such Treasurer in his Accounts, upon his producing the Vouchers aforesaid.

IV. *And be it Enacted*, That any One or more Justices of the Peace on receiving Information, that Deserters or any idle and disorderly Persons are in any Place within his or their Jurisdiction, shall issue his or their Warrant to the Constables to search for and apprehend such Deserters or idle and disorderly Persons, and in Case any Person apprehended upon any such Search be charged before such Justice or Justices with being a Deserter from His Majesty's Navy, or Army, or an idle and disorderly Person, or with Suspicion of Felony (altho' no direct Proof be then made thereof) to examine such Person, not only as to the Place from whence he came, and where he was last legally settled, but also, as to his Manner of livelihood, the Substance of which Examination shall be put in Writing and be signed by the Person so examined, and the said Justice or Justices shall sign the same and transmit it to the next *General Sessions of the Peace* for the County, or *Special Sessions* for the District where such Justice or Justices reside, to be filed and kept on Record, and if such Person make it not appear to such Justice or Justices, that he is not a Deserter, and that he has a lawful Way of getting his Livelihood by Labour or otherwise, or procure not some responsible House-keeper to appear to his Character, and give Security for his Appearance before such Justice or Justices, at some other Day (in Case the same be required) to commit such Person to some Prison or House of Correction for any Time not exceeding fourteen Days, and in the mean Time to order the Overseers of the Poor of the Township or Place, in which such Person is apprehended, insert Advertisement in the public News Paper, describing such suspicious Person, and any Thing

Thing found not to be which such such Performances to be him, such according to

V. *And* other Officer in his Duty disturb the hended or Escape, and Witnesses be committed forfeit any *Shillings*, to by Distress such Justice lawful for son, or to the bour for an

VI. *And* permit any to lodge in and shall n or Vagabonds ble or other either on C a Justice w not exceed Moiety to Township rant from Township be answerd by Di be found, House of C one Month

Provided and fined Deserters

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Thing found upon him or in his Custody, and which he is suspected not to have come honestly by, and mentioning the Place to which such Person is committed, and specifying when and where such Person is to be again brought before the said Justice or Justices to be examined, and if no Accusation be then laid against him, such Person shall be discharged, or otherwise dealt with according to Law.

V. *And be it also further Enacted*, That if any Constable or other Officer, or Master of any House of Correction be negligent in his Duty in the Execution of this Act, or in Case any Person disturb the Execution of this Act, or rescue any Person apprehended or passing by Virtue thereof, or be assisting to his or her Escape, and be convicted thereof upon the Oath of one credible Witness before one Justice of the Peace, where such offence is committed, the Person so offending, for every such Offence, shall forfeit any Sum not exceeding *Five Pounds*, nor less than *Ten Shillings*, to the Use of the Poor of the Township, to be levied by Distress and Sale of the Offenders Goods, by warrant from such Justice, and if sufficient Distress cannot be found, it shall be lawful for such Justice to commit the Persons so offending to Prison, or to the House of Correction, there to be kept to hard Labour for any Time not exceeding two Months.

Penalty on Officers not doing their duty.

and on Persons hindering the execution of this Act or rescuing Prisoners.

to be levied by Distress and Sale, &c.

VI. *And be it Enacted*, That if any Person shall knowingly permit any Deserter or idle and wandering servant or Vagabond to lodge in his or her House, Barn or other Outhouse or Buildings, and shall not apprehend and carry such Deserter or idle Servant or Vagabond before some Justice, or give Notice to some Constable or other Officer so to do, such Person being thereof convicted, either on Confession or upon Oath of one credible Witness, before a Justice where such offence is committed, shall forfeit any Sum not exceeding *Forty Shillings*, nor less than *Ten Shillings*, one Moiety to the Informer, and the other Moiety to the Poor of the Township, to be levied by Distress and Sale of Goods by Warrant from such Justice, and if any Charge be brought upon any Township or Place by Means of any such Offence, the same shall be answered to the said Township by such Offender, and be levied by Distress and Sale of goods, and if sufficient Distress cannot be found, such Offender shall be committed to prison or to the House of Correction by the Justice for any Time, not exceeding one Month.

Penalty for sheltering Deserters, &c.

Provided, That any Person who shall have been prosecuted and fined on the Act of Parliament for concealing or harbouring Deserters shall not be again prosecuted for the same, on this Act.

VII. *And be it also Enacted*, That where Persons by Lunacy or otherwise, are seriously mad, and dangerous to be permitted to

Lunatics to be confined by Warrant of Justices.

go abroad, it shall be lawfull for two Justices where such Lunatic is found, by Warrant directed to the Constables, Church Wardens and Overseers of the Poor of the Township or Place, to Cause such Person to be apprehended, and kept safely locked up in some secure Place within the County, as such Justices direct, and if such Justices find it necessary to be there chained, if the last legal Settlement of such Person be in any Place within such County, and if such Settlement be not there, such Person shall be sent to the Place of his last legal Settlement by a pass, and shall be locked up and chained by Warrant of two Justices of the county to which such Person is to be sent, and the Charges of removing and maintaining and curing such Person during such restraint (which shall be for such Time only as such Madness Continues) shall be paid, being first proved upon Oath, by Order of two Justices directing the Church Wardens or Overseers of the Poor, where any Goods Lands or Tenements of such Person be, to seize and sell so much of the Goods or receive so much of the Rents of the Lands as is necessary to pay the same, and to account for what is so seized, sold or received to the next Sessions of the Peace; but if such Person hath not an Estate to pay the same over and above what is sufficient to maintain his or her Family, then such Charge shall be paid by the Township or place to which such Person belongs, by Order of two Justices, directed to the Church Wardens or Overseers.

Goods & Estates of Lunatics to be seized to pay the Charge of their maintenance.

Otherwise at the Charge of the Township or Place.

Provido.

VIII. *Provided.* That nothing herein contained, shall extend or be construed to extend to abridge the prerogative of his Majesty, or of the Chancellor, concerning such Lunatics, or restrain any Friend or Relation of such Lunatics from taking them under their own Care.

Persons sued for any thing done in execution of this Act may plead general issue.

Treble Costs recovered.

IX. *And be it also further Enacted,* That if any Person or Persons shall be sued for any Matter or thing, which he or they shall do in Execution of this Act, he or they may plead the General issue, and give the special Matter in Evidence, and if a Verdict shall pass for the Defendant or the Plaintiff shall be non suited, or discontinued his Suit, the Defendant may recover treble Costs,

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C A P. VI.

An Act in Addition to, and in Amendment of an Act, made in the Eighth Year of His present Majesty's Reign, intituled, *An Act for establishing the Times of holding the Supreme Court.*

8 Geo. 3. cap. 5.

*W*HEREAS many and great Inconveniencies have arisen, and daily do arise, for want of a more speedy and full Administration of Justice in the several Counties in this Province, that many Suitors living and residing therein, do sue and prosecute their Actions and Causes of Complaint in the Supreme Court, at present held only at Halifax, and that their being obliged to come from a great Distance themselves, and bringing their Witnesses, is very detrimental as well as expensive to them, and great Injury is thereby done to Individuals, as well as to the public Good of the Province; and whereas His Majesty has been pleased to grant a Commission and appoint a Supreme Court, Court of Assize and General Goal Delivery, to be holden in, and through the Province, exercising the Powers of the several Courts of King's-Bench, Common Pleas and Exchequer in England, and that the holding the said Court at certain stated Times in such Counties to which there is a Communication with the Town of Halifax by Land, will greatly contribute to the Security of the Rights of the Crown, as well as to the Ease and Welfare of His Majesty's Subjects in this Province.

Preamble.

I. Be it therefore Enacted, by the Governor, Council and Assembly, That the said Supreme Court shall from and after the Thirtieth Day of December next, be holden in the several Towns and Counties, and at such Times and in such Manner, as are hereafter mentioned, and that the said Supreme Court shall be, and is hereby empowered to proceed at the said several Sitings, in and as near the same Manner as hath heretofore been used in the said Court, sitting at Halifax, and that the several Laws of this Province, respecting Jurors shall extend and be construed to extend to the holding the said Supreme Court at the said several Times and Places, and that all the Proceedings, Rules, Judgments and Executions of the said Supreme Court, legally had, made and done, in and at their Sitings and Terms, and at the said several Places, shall be good, valid and effectual to all Intents and Purposes whatsoever.

The Supreme Court shall after the 30th Dec. 1774. be held in the several Towns and Counties & Times hereafter mentioned.

The Laws respecting Jurors to extend to the holding the said Court at the said Times, &c. and all Proceedings &c. therein valid & effectual.

II. And Whereas it may be attended with Inconvenience, that all and every the Judges of the said Supreme Court, should be present at the several Sitings of the said Court.

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Two Judges to hold
the said Court.

Be it Enacted, That any two of the Judges of the said Court, shall be sufficient for holding the same, and transacting the Business thereof, at all, any, and every of the Times and Places hereafter mentioned, and the legal Proceedings then and there had, shall be to all Intents and Purposes whatsoever, as good and effectual, as if all the Judges of the said Court were present.

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same.

III. *And be it Enacted*, That the said Supreme Court shall be held at *Halifax*, on the first Tuesday of *January*, the last Tuesday of the Month of *March*, the Second Tuesday of the Month of *July*, and on the last Tuesday of the Month of *October*; at *Horton* in *King's County*, on the Third Tuesday of the Month of *April*, and Second Tuesday of the Month of *October*; at *Annapolis* in the County of *Annapolis*, on the First Tuesday of the Month of *May*, and last Tuesday of the Month of *September*; at *Cumberland* in the County of *Cumberland*, on the last Tuesday of the Month of *May*, and First Tuesday of the Month of *September* in every Year. And that the Time of Sitting of the said Supreme Court, in each of the Terms or Times for holding the same, shall be limited, *that is to say*, at *Halifax* for Fourteen Days, from the Day of opening the said Court, unless in Cases of unavoidable Necessity, or that the Multiplicity of Business at either of the said Terms should require it, in which Case the Judges may continue the same for a Time not exceeding Six Days longer. And that in each of the other Counties the said Court shall not sit longer than Five Days from the Day of opening each of the said Courts.

Manner of drawing
the Jurors for the
first sittings.

IV. *And be it further Enacted*, That the said Supreme Court shall and may at the next Sitting of the said Court, issue their several Writs of *Venire Facias* to the Provost Marshal or his Deputy for the Summoning of Jurors in the said Counties of *King's County*, *Annapolis*, and *Cumberland*, and that the said Provost Marshal or his Deputy, shall upon the Receipt of such Writ or Writs of *Venire Facias*, draw out of the Jury Box of the said County in the presence of Two of His Majesty's Justices of the Peace for such County, (and who are hereby directed to attend the Provost Marshal or his Deputy at the drawing the same) a Grand and Petit Jury, to serve at the Sitting of the said Supreme Court in the County, where the said Writ is so directed, and the said Provost Marshal or his Deputy shall duly summon the said Jurors, Twelve Days before the Sitting of the said Court in the said Counties respectively, and that the said Jurors shall be liable to all the Penalties of the Laws of this Province for their Non-Attendance as aforesaid, and that all Presentments, Indictments, Verdicts and other legal Proceedings then and there had, made and done by the said Jurors so summoned as aforesaid, shall be good and lawful to all Intents and Purposes whatsoever; and that from and after the first Sittings of the said Supreme Court in the said Counties of *King's County*, *Annapolis*, and *Cumberland*, the

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the several Juries to be summoned in and for the said Counties respectively, shall be summoned as hath heretofore been used and practised in the *Supreme Court* sitting at *Halifax*.

and after first fittings to be drawn as usual.

Provided always, That nothing herein contained shall be of Force or Effect until His Majesty's Pleasure be known thereon.

C A P. VII.

An ACT in further Amendment of an Act, made in the Thirty Second Year of His late Majesty's Reign, intituled *An Act relating to Treasons and Felonies*.

32d Geo. 2. cap. 13.

HEREAS in and by an Act made in the Thirty Second Year of His late Majesty's Reign, intituled *An Act relating to Treasons and Felonies*, it is among other Things Enacted, "That Offences therein described as in Degree of Petit Larceny, shall be punished by such public Whipping as the Court before whom such Offender shall be convicted shall direct;" and whereas it is thought expedient that the Court should have Power to order the Person convicted of such Petit Larceny to be imprisoned, or committed to the House of Correction, or whipped at the Discretion of the Court.

Preamble.

Be it therefore Enacted, by the Governor, Council and Assembly, That it shall and may be lawful for the Court before whom any Offender shall be so convicted as of Petit Larceny, punish such Offender by Whipping or Imprisonment or Commitment of such Offender to the House of Correction, there to be put to hard labour, the said Imprisonment or Commitment to the House of Correction not to exceed Three Months, and within that Space for such Time as the Judges in their Discretion shall think fit.

In Convictions of petit larceny Court empowered to punish Offenders by whipping or imprisonment.

C A P. VIII.

An Act to empower the Supreme Court to issue Writts of Certiorari.

Be it Enacted by the Governor, Council and Assembly, That the Supreme Court for this Province shall and may upon Application issue Writts of Certiorari for removing Orders of Sessions of the Peace, under such Regulations, Restrictions and Powers, as Writts of Certiorari are issued

Supreme Court on application for Writts of Certiorari for removing Orders of Sessions of the Peace.

issued by His Majesty's Court of King's-Bench in *Great-Britain*, and conformable to the Course and practice of the Common Law, and the several Statutes for that Purpose made and provided.

C A P. IX.

An Act for altering the Times of holding the Court of General Sessions of the Peace, and Inferior Court of Common Pleas for the County of Cumberland.

XXXX HEREAS by an Act made in the Seventh Year of His Majesty's present Majesty's Reign, intituled, "An Act for regulating the Times and Places for holding the several Courts of Justice," therein named: It is Enacted, That the Courts of General Sessions of the Peace, and Inferior Court of Common Pleas shall be held for the County of Cumberland, in the Town of Cumberland, on the First Tuesday of June, and on the Second Tuesday of October; And whereas the holding the said Courts at those Times has been found inconvenient;

Be it Enacted, by the Governor, Council and Assembly, That the said Courts, shall be held for the future, on the last Tuesday of June and the last Tuesday of October, in every Year, any Law, Usage or Custom to the contrary notwithstanding.

C A P. X.

32d Geo. 2. cap. 20.

An Act in Amendment of an Act, made in the Thirty Second Year of His Late Majesty's Reign, intituled, *An Act for punishing Criminal Offenders.*

Preamble.

Sec. 9.

Sec. 6.

XXXX HEREAS by an Act made in the Thirty Second Year of His Late Majesty's Reign, intituled, "An Act for punishing Criminal Offenders, it is among other things Enacted, that every Person convicted of Perjury in Manner therein mentioned, shall be set in the Pillory, and that both his Ears shall be nailed to the Pillory, and that every Person convicted of Counterfeiting, impairing, diminishing or imbasing any Foreign Coins current in this Province, in manner also therein mentioned, shall be set in the Pillory, and that one of his Ears shall be nailed to the Pillory." And Whereas it was the Intent of the said Act for due Punishment of such Offenders,

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ders, that both the Ears of the Person convicted of Perjury, and that one Ear of the Person convicted of Counterfeiting, impairing, diminishing, or imbasing, any Foreign Coin current in this Province, should be cut off and then nailed to the Pillory.

Be it therefore Enacted, by the Governor, Council and Assembly, That the said Act shall on all Convictions for the Offences aforesaid, be hereafter so understood and construed, and that both the Ears of such Offender or Offenders as shall be convicted of Perjury; and one of the Ears of the Offender or Offenders as shall be convicted of counterfeiting, impairing, diminishing, or imbasing any Foreign Coin current in this Province, shall for more exemplary Punishment, be first cut off; and then nailed to the Pillory, any thing expressed in the said Act to the contrary notwithstanding.

Punishment of Persons convicted of Perjury, and of counterfeiting, &c. any Foreign Coin, explained.

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At the GENERAL-ASSEMBLY of the Province of *Nova-Scotia*, begun and holden at HALIFAX, on the Sixth Day of *June*, Anno Domini 1770, in the Tenth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great-Britain*, *France*, and *Ireland*, King, Defender of the Faith, &c. and there continued by several Prorogations until the Twelfth Day of *June*, Anno Domini 1775, in the Fifteenth Year of His said Majesty's Reign, being the Fifth GENERAL-ASSEMBLY convened in the said Province.

C A P. I.

An A C T in Addition to an Act made in the Fifteenth Year of his present Majesty's Reign, intituled, *An Act to prevent Waste and Destruction of Pine or other Timber Trees on certain reserved and ungranted Lands in this Province.*

15. Geo. 3. cap. 3.

WHEREAS the restrictions contained in an Act, made and passed in the Fifteenth Year of his present Majesty's Reign, intituled, "An Act to prevent Waste and Destruction of Pine and other Timber Trees on certain reserved and ungranted Lands in this Province," are too general and may tend, greatly to the detriment of the Fishery; in Order to remedy the same,

Preamble.

Be it Enacted, by the Governor, Council, and Assembly, That any Person or Persons inhabiting the Island of *Cape Breton* and such as are employed in and about the Fishery may cut down and use such Wood as shall be necessary for Fuel and the Purposes of the Fishery & such Persons shall not be liable to the Penalties of said Act altho' it should be beyond the line therein prescribed any Thing to the contrary in said Act notwithstanding.

Persons inhabiting the Island of *Cape Breton* and such as are employed in the Fishery may cut down and use such wood as shall be necessary for Fuel and the Fishery.

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At the GENERAL-ASSEMBLY of the Province of *Nova-Scotia*, begun and holden at HALIFAX, on the Sixth Day of *June*, *Anno Domini* 1770, in the Tenth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great-Britain*, *France*, and *Ireland*, King, Defender of the Faith, &c. and there continued by several Prorogations until the Twentieth Day of *October*, *Anno Domini* 1775, in the Fifteenth Year of His said Majesty's Reign, being the Fifth GENERAL-ASSEMBLY convened in the said Province.

C A P. I.

An ACT in Addition to the several Acts of this Province, made for regulating the Militia, and more particularly an Act made in the Second Year of His present Majesty's Reign, intituled, *An Act for the better regulating the Militia on actual Service in Time of War.*

32. Geo. 2. cap 6.
2. Geo. 3. 6.
7.

W H E R E A S many and great Inconveniencies may arise for Want of a sufficient Power by Law being granted to the Governor, Lieutenant Governor, or Commander in Chief of the Province for the Time being, to enlist and embody out of the Militia such sufficient and able bodied Persons as are best qualified, and fit for actual Service in Time of Danger.

Preamble.

I. Be it enacted by the Governor, Council and Assembly, That the Governor, Lieutenant Governor or Commander in Chief, for the time being, or any and every Person by him or them for that Purpose appointed, shall and may enlist as Volunteers, and enter into the Service of this Province, or any Regiment of Militia

Governor, &c. or Person by him appointed may enlist Volunteers to serve in Militia.

to be embodied within the same, all and every able bodied person as may be willing to enlist in the said provincial Militia.

No Apprentice or indented Servant to be enlisted.

II. *Provided always*, That no Apprentice, or indented Servant shall be enlisted as a Volunteer in the said Militia.

Governor, &c. may Commission and appoint Officers being Persons resident and Freeholders, to draft by Ballot from the Militia, so many Men as the Governor, &c. shall think necessary.

III. *And be it Enacted*, That the Governor, Lieutenant Governor or Commander in Chief, for the Time being, shall and may commission and appoint such Officer or Officers, as He or They shall think proper (being Persons resident and Freeholders in this Province for at least one Year last before their appointment) to elect and draught by Ballot from the Militia of this Province, so many able bodied Men as the Governor, Lieutenant Governor or Commander in Chief for the Time being, with the Advice and Consent of his Majesty's Council shall from Time to Time think necessary to assist in the Defence of this Province.

Commanding Officer within 48 Hours after receiving Orders, to muster the Regiment or Company (from which Drafts are to be made.)

IV. *And be it also Enacted*, That the Commanding Officer of each and every Regiment, troop or Company of Militia in this Province, or such other Person so commissioned as aforesaid, shall under the Penalty of Twenty Pounds for each and every Neglect or Offence, from Time to Time, and at all Times, upon receiving Orders from the Governor, Lieutenant Governor, or Commander in chief, for the Time being, within Forty Eight Hours after receiving such Orders, order and direct to be warned by a proper or usual warning Officer, the Regiment Troop or Company, from which Draughts are to be made as aforesaid, to be drawn out, muster and appear, at some convenient Place in each Township or District, where such Militia reside, within three Days from the issuing such Orders.

Every Person obliged by Law to serve in the Militia, shall, on Notice, attend the Muster. Penalty £10.

V. *And be it also further Enacted*, That each and every Person, who by the Laws of this Province are obliged to serve in the Militia, upon being warned by a proper or usual warning Officer, either by personal Notice or a written Notice, left at his or their usual Place of Abode, shall personally attend at the Time and Place of muster as aforesaid, under the Penalty of ten Pounds for each and every Neglect or Offence, unless it be made appear upon the Trial, that the Attendance of such Person so notified to muster, was prevented by Sickness or other unavoidable accident.

VI. *And Whereas in the Eighth Section of the Act, made in the Second Year of his present Majesty's Reign, intituled, "An Act for the better Regulating the Militia on actual Service in Time of War." It is Enacted*, "That when any Part of the Militia shall be draughted to march from one Part of the Province or Town to another, on real Service, all such Draughts or Detachments shall be made by Ballot from each Company, in exact Pro-

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"portion, according to the Numbers then fit for Duty, which shall be on the Oath of the Captain or commanding Officer, to the best of his Knowledge." But no Form of the said Oath is prescribed in the said Act; *Be it Enacted*, That before such Ballot shall be made by every such Captain or commanding Officer, he shall take the following Oath, before One of His Majesty's Justices of the Peace.

"**I** Do solemnly swear, that I will without Fear, Favour, Affection, Reward or Promise thereof, make a just and true Ballot to the best of my Skill and Knowledge, of all and every able bodied Man, fit and sufficient for actual Service, in the Militia under my Command."

Oath to be taken by the Officer making the Ballot from each Company for Service.

VII. *And be it also Enacted*, That the Governor, Lieutenant Governor or Commander in Chief, for the Time being, is hereby empowered, and may order such Corps or Body of Militia so to be raised and embodied, to march into any Part or Parts of this Province for the Defence of the same, and there to execute and perform such Duties and Services, as from Time to Time, He or they shall with the Advice and Consent of his Majesty's Council judge necessary for the Defence and Service of this Province.

The Governor &c. empowered with Advice and Consent of Council to order the Militia to march to any part of the Province for the defence of the same.

VIII. *And be it also further Enacted*, That all and every commissioned and non-commissioned Officer, Drummer and private Soldier, of such embodied Militia, shall receive and be paid as his or their Allowance and Pay, the same Rates, Proportions and Allowances, as are appointed and directed by an Act, made in the second Year of his present Majesty's Reign, intitled, "An Act for the better regulating the Militia on actual Service in Time of War," and also, that each and every Officer in the said Militia so to be embodied, shall receive and be allowed the like, and every such like Rations of Provisions and Allowances as Officers of the like Appointment serving in his Majesty's Army, and that the aforesaid Rates and Proportions of Monies and Provisions, shall be paid, delivered and accounted for unto all, such commissioned Officers monthly, and unto all and every non-commissioned Officer and Soldier weekly.

Officers, &c. to be paid as by Act of 2d Geo. 3. Cap. 7. and to receive the same Rates and Allowances.

Officers to be allowed the like Rations of Provisions and Allowances as Officers serving in His Majesty's Army.

IX. *Provided always, and be it Enacted*, That the Governor, Lieutenant-Governor or Commander in Chief, for the Time being, with the Advice and Consent of his Majesty's Council, and the Field Officers of such Corps, Regiment, Troops, or Companies of Militia so to be embodied, may order and direct, to be retained and stopped such Sum or Sums of Money out of the Allowance and Pay to each and every non-commission Officer, Soldier and Drummer, not exceeding one third of their daily Pay and Subsistence, for purchasing and providing such Cloathing

The Governor, &c. with Advice and Consent of Council and Field Officers of Militia, to order and direct Stoppages from Non-Commission Officers and Soldiers, not exceeding 1d. of daily Pay for purchasing Cloathing and Necessaries.

and Neecessaries, as may be requisite for such Militia, and which Cloathing and Neecessaries, shall belong, pertain and be the Property of each respective Person, for whom the same are provided, subject nevertheless to such military Regulations, Laws and Orders, as may be made from Time to Time by the Governor, Lieutenant-Governor, or Commander in Chief for the Time being, with the Advice and Consent of his Majesty's Council, and the Field Officers of such Militia so to be embodied.

Fines and penalties
how recovered levied
and appropriated.

X. *And be it also Enacted*, That all and every Fine and Penalty that may be incurred by Force or Virtue of this Act, shall and may be recovered upon the Oath of one or more credible Witnesses, before any two of his Majesty's Justices of the Peace (not being Officers of such Corps or Body of Militia, so to be raised or embodied) and the said Fines and Penalties shall be levied by Warrant of Distress or Execution under the Hands and Seals of such Justices, upon the Body, Goods Chattles or Estate, of each and every Delinquent, and that all and every Fine and Penalty levied, recovered and received by Force or Virtue of this Act, shall be paid into the Hands of the Treasurer of this Province, to be expended and laid out for such Military Uses as shall be thought necessary by the Governor, Lieutenant-Governor, or Commander in Chief of this Province for the Time being.

The Militia when
embodied, to con-
tinue in actual Ser-
vice so long as may
be judged necessary
by the Governor
and Council.

XI. *And be it also further Enacted*, That the said Militia so to be embodied and all and every Person that may be draughted or received therein, as aforesaid, shall continue so embodied and in actual Service, from the Time of their being so draughted and embodied, on Occasions of actual Danger, for and during so long a Period and Time, as may be judged absolutely necessary, by the Governor, Lieutenant-Governor, or Commander in Chief, for the Time being, and his Majesty's Council, for the Defence and Service of this Province.

The Governor, &c.
and Council may
declare Martial Law
over the Militia so
embodied,

XII. *And be it Enacted*, That the Governor, Lieutenant-Governor, or Commander in Chief, for the Time being, with the Advice and Consent of his Majesty's Council, may declare Martial Law over, and to operate upon, and in the said Corps or Body of Militia, so to be draughted, raised and embodied as aforesaid, and that the Governor, Lieutenant-Governor, or Commander in Chief for the Time being, together with his Majesty's Council, and the Field Officers of such Militia, so to be embodied, as aforesaid, may and are hereby impowered to make, publish and declare all such Laws, Rules and Orders for the military Discipline of such Corps or Body of Militia so to be draughted and embodied as aforesaid, as they may think just and necessary, for the good Order and Discipline of the same, and that all such

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Rules and Orders so as aforefaid to be made, shall have full Force, and Effect in fuch Militia, fo to be embodied.

XIII. *Provided always, and be it Enacted*, That all and every fuch Rule and Order fo to be made as aforefaid, fhall not extend to the Life of any Perfon, or to the depriving him of his Property, above Forty Shillings, for each and every Offence, to be committed againft fuch Rules and orders fo to be made as aforefaid.

Such Rules and Orders not to extend to the Life nor Fine above 40/.

XIV. *And be it Enacted*, That each and every Regiment, Troop, Company or Body of Militia of this Province, fo to be drafted, raifed and embodied, as aforefaid, and every Part thereof, fhall be officer'd and commanded by Perfons, who are at the Time of their being appointed, and who have been for at leaft one Year next before the Time of their being appointed or commissioned, Freeholders and Residents in this Province, and by no other Perfon or Perfons whatfoever.

The Militia fo to be raifed and embodied to be Officer'd and Commanded by perfons who are and have been at leaft one year Freeholders and Residents in the Province.

XV. *Provided always*, That it fhall and may be lawful for the Governor, Lieutenant Governor or Commander in Chief for the Time being, to appoint one proper Perfon, who fhall have ferved, or fhall at the Time of fuch Appointment actually ferve, in fome of his Majesty's Forces, to be Adjutant to each Regiment or Corps of Militia, and alfo one proper Perfon as a Serjeant to each Company of fuch Militia, fo ordered out on Service as aforefaid.

The Governor &c. to appoint one proper perfon as Adjutant to each Regiment or Corps of Militia and one Serjeant to each Company.

XVI. *Provided always, and be it Enacted*, That this Act nor any Part thereof, fhall be put in Force, or take Effect, but in Times of aétual Invaſion, Infurrection, Rebellion, fudden Attack from an Enemy or imminent Danger thereof, to be determin'd by the Governor Lieutenant Governor or Commander in Chief, with the Advice and Consent of his Majesty's Council, any thing herein contained to the contrary notwithstanding.

This Act not to be put in Force or take Effect but in times of aétual Invaſion &c. or imminent danger thereof.

C A P. II.

1. Geo. 3. cap. 6.

An Act in Addition to an Act, made in the First Year of his present Majesty's Reign, intituled, *An Act to prevent the spreading of contagious Disorders.*

When any Persons, come from any Place infected with Plague, Small Pox, &c.

on sufficient Evidence and Testimony of Physicians, &c. Two or more Justices with Overseers of the Poor to take care and make effectual Provision for the preservation of the Inhabitants.

Sick or Infected Persons to remove themselves or be removed by Justices and Overseers of the Poor.

Persons to be removed by Parents or Guardians, or by Overseers of the Poor, who shall be liable to pay the same, to be paid by Overseers of the Poor of Town where they belong.



Be it Enacted, by the Governor, Council and Assembly, That for the better preventing the spreading of Infection, when it shall happen that any Person or Persons coming from abroad, or belonging to any Town or Place within this Province, visited, or that late before, have been visited with the Plague, Small Pox, pestilential or malignant Fever, or other contagious Sickness, the Infection whereof may probably be communicated to others, Two or more of the Justices of the Peace, together with the Overseers of the Poor, of such Town, are hereby empowered, upon full and sufficient Evidence and Proof being made to such Justices and Overseers of the Poor, and after taking the Testimony of One or more Physician, Surgeon or Apothecary, living and residing in, or near such Township or Place, to take care and make effectual Provision in the best Manner they can, for the Preservation of the Inhabitants, and of such Sick or Infected Person or Persons shall not remove himself, or themselves, or be removed by his or their Parents or Masters, to such Place as the Justices and Overseers of the Poor, shall think fit and proper, provided the same be within such Township or Place, it shall and may be lawful for the said Justices and Overseers of the Poor to remove and place such Sick or Infected Person or Persons to, and in a separate House or Houses as aforesaid, and by providing Nurses, Attendance and other Assistance, and Necessaries for them at the Charge of the Parties themselves, their Parents or Masters, if able, or otherwise at the Charge of the Town or Place where to they belong. And in Case it shall happen, that any Person or Persons shall be visited with any such Small Pox, malignant Infection or Sickness, in any other Town or Place than that whereto they belong, and thereby Occasion a Charge to such Town, the Overseers of the Poor shall lay the Account thereof before the Justices in the Court of General or Special Sessions of the Peace, held for the County or District, where such Town lies, whereto such Person or Persons belong, and the Justices having adjusted the Account of such Charge, and allowed so much thereof as they judge reasonable, shall order Payment thereof to be made by the Overseers of the Poor, when the Persons themselves, their Parents, or Masters, are unable to pay the same, and when it shall happen that such indigent Persons, are not Inhabitants or belonging to any Town or Place within this Province

Province, and relief, being admitted, shall be defrayed by Warrant from the Treasurer in Chief.

II. *Provided* that no Person shall be inoculated (for Families included) into any House or Place, unless their being in such Hundred and Dwelling, and Persons infected with the same, shall be made manifest by a Flag hung up in such Houses.

III. *Provided* that no Person shall be confined

An Act in Addition to an Act, made in the First Year of his present Majesty's Reign, intituled, *An Act to prevent the spreading of contagious Disorders.*



I. *Be it* That from and after the Table shall

Province, and the proper Charge thereof, in Case they need Relief, being adjusted as aforesaid, then the Charge of their Sickness shall be defrayed out of the public Treasury of the Province, by Warrant from the Governor, Lieutenant Governor or Commander in Chief on the Certificate of the said Justices.

and when such Persons do not belong to any Town such Charge to be paid by the Treasurers of the Province.

II. *Provided*, That any Person or Persons desirous of being inoculated (for the Small Pox) themselves, or of having their Families inoculated, may proceed therein, provided, that the House or Place wherein they dwell or reside, during the Time of their being infected with the Small Pox, shall be at least One Hundred and Sixty Rods Distance from any other House or Dwelling, and that they take Care to prevent and restrain all Persons infected from going from thence further than Eighty Rods from such House, and also that such their Design of Inoculating be made known in the Township where they dwell, and a Flag hung out at their said House, to the End that all Persons may take Notice thereof, and avoid if they see cause going near such Houses or Places.

Rules to be observed by Persons who shall inoculate themselves or Families.

III. *Provided also*, That nothing in this Act contained, shall be construed to extend to the Town of *Halifax*.

Nothing in this Act to extend to Town of *Halifax*.

C A P. III.

An Act in Addition to, and Amendment of, an Act, made in the Eleventh Year of his present Majesty's Reign, intituled, An Act for altering and amending an Act made in the Thirty Second Year of His late Majesty's Reign, intituled, *An Act relating to the Assize of Bread, and for ascertaining the Standard of Weights and Measures.*

11. Geo. 3. cap. 11.

 *WHEREAS* no Assize Table is made for fixing and ascertaining the Weight of Bread, when it shall happen that the Price of Flour exceeds Eighteen Shillings the One Hundred and Twelve Pounds, *Preamble.*

I. *Be it Enacted, by the Governor, Council, and Assembly.* That from and after the Publication of this Act, the following Table shall be the Rule for making the Assize of Bread made

for

for Sale, when the Price of good, sound, inspected, Wheaten, fine Flour, shall be as hereunder mentioned, *that is to say,*

Table for making
the Assize of Bread
when Flour from
28s. to 28s. per
Ct. Weight.

When such Flour shall be from Eighteen to Nineteen Shillings the One Hundred and Twelve Pounds, the Sixpenny Loaf, shall weigh,	2lb.	8oz.
When from Nineteen Shillings to Twenty Shillings, inclusive,	2	6
When from Twenty Shillings to Twenty One Shillings, inclusive,	2	5
When from Twenty One Shillings to Twenty Two Shillings, inclusive,	2	3
When from Twenty Two Shillings to Twenty Three Shillings, inclusive,	2	2
When from Twenty Three Shillings to Twenty Four Shillings, inclusive,	2	0
When from Twenty Four Shillings to Twenty Five Shillings, inclusive,	1	15
When from Twenty Five Shillings to Twenty Six Shillings, inclusive,	1	13
When from Twenty Six Shillings to Twenty Seven Shillings, inclusive,	1	12
When from Twenty Seven Shillings to Twenty Eight Shillings, inclusive,	1	10

When Flour exceeds 28s. the 6d Loaf to weigh 20z. less for every 1s such Flour shall be at more than 28s

Brown Bread to weigh $\frac{1}{2}$ lb more for 6d than White Bread.

Two Justices appointed by Sessions to make monthly an Assize of Bread agreeable to the Table in this Act and in the Act 11th; Geo. 3d.

Assize to be affixed in the most public Place by Clerks of the Market.

II. *And be it also Enacted,* That when it shall so happen that such Merchantable, fine Flour as aforesaid, shall be at a greater Price than Twenty Eight Shillings the One Hundred and Twelve Pounds, the Six Penny Loaf of such Flour, shall weigh two Ounces less for every Shilling such Flour shall be at more than Twenty Eight Shillings the One Hundred and Twelve Pounds, and that the Household or good Brown Bread, shall weigh Half a Pound more for Six-Pence, than White Bread.

III. *And be it also further Enacted,* That any two of His Majesty's Justices of the Peace (such Justices being appointed by the Sessions) are hereby empowered to make Monthly an Assize of Bread made for Sale, according to the Price of Flour, and agreeable to the aforementioned Table, and the Table contained in an Act made in the Eleventh Year of His present Majesty's reign, intitled, "An Act for altering and amending an Act made in the Thirty-Second Year of His late Majesty's reign, intitled, *An Act relating to the Assize of Bread, and for ascertaining the Standard of Weights and Measures,*" such Assize to be affixed in the most Public Place in the Town by the Clerks of the Market, any Law, Usage or Custom to the contrary notwithstanding.

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IV. *And be it Enacted*, That the Clerks of the Market shall examine all Bread made for Sale, and shall seize all such Bread as shall be found under the Weight prescribed in the Assize made as aforesaid, under the Penalty of Forty Shillings for every Neglect, and the Baker of such Bread so found under Weight, shall forfeit and pay for every such Offence the Sum of Forty Shillings, which Fines and Penalties shall be levied by Warrant of Distress and Sale of the Offenders, Goods and Chattels, under the Hand and Seal of one of His Majesty's Justices of the Peace, and Three Fourths of the Bread so seized and of the Fines and Penalties so levied shall be for the Use of the Poor of the Town or Place where the Offence shall be committed, and the other fourth Part, to and for the Person who shall detect the Fraud, and seize such Bread as aforesaid.

Clerks of Market
to examine all
Bread made for
Sale and seize all
Bread under weight

Penalties.

how to be levied,

and applied.

C A P. IV.

An Act in Amendment to the several Laws of this Province concerning Bail.

HEREAS many and great Inconveniencies arise for the want of Authority being granted by Law, for holding to Bail such Persons who may be indebted for Sums under Ten Pounds, and exceeding Three Pounds.

Preamble.

I. *Be it Enacted by the Governor, Council and Assembly*, That in all Causes where the Sum in demand shall exceed Three Pounds, the Provost Marshall or his Deputy, may arrest, imprison or hold to Bail, any Debtor or Debtors, upon the Plaintiff, his Attorney or agent making and subscribing an Affidavit in writing or on the back of the Writ to be issued, for Recovery of the Debt, to be sued for, before a Judge or the Clerk or his Deputy of the Court from whence the Writ shall issue, that the Defendant is justly indebted to the Plaintiff in any Sum exceeding Three Pounds, which Affidavit to be subscribed as aforesaid, shall be filed in the Clerk's Office from whence such Writ may issue as aforesaid, and the Sum specified in such Affidavit so made and subscribed as aforesaid, or to be made on the Writ as aforesaid, shall be indorsed on the Writ to be issued as aforesaid, in the Form following, by Oath for (in Words at Length) for which Sum so indorsed, the Provost-Marshal, Sheriff, Coroner or their Deputies shall take Bail, and for no more; any Law, Usage or Custom to the contrary notwithstanding.

In all Causes where the Sum in Demand shall exceed £3 the Provost Marshall or Deputy, may arrest, imprison, or hold to Bail any Debtor, upon Plaintiff his Attorney or Agent making Affidavit before a Judge or the Clerk or Deputy Clerk of Court.

Sum sworn to, to be indorsed on the Writ.

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II. *Provided*

If Plaintiff is sick and unable to attend on the Judge, or the Clerk or Commissioner for taking Bail, such Plaintiff may make Affidavit before a Justice of the Peace.

II. *Provided always, and be it Enacted*, That whensoever it may happen that any Plaintiff or Plaintiffs are sick and unable to attend upon the Judge or Clerk of any Court, or upon a Commissioner for taking Bail, to make Oath to his or their Debt for holding a Defendant to Bail, such Plaintiff may make Oath before any One of His Majesty's Justices of the Peace, and every Oath so to be taken, and Bail, which may be ordered by any One of His Majesty's Justices of the Peace as aforesaid, shall be as good and effectual as if made before any Judge, Commissioner or Clerk as aforesaid.

C A P. V.

An Act for establishing the Times of holding an
Inferior Court of Common Pleas in the Town-
ship of *Yarmouth* in *Queen's-County*.

Preamble.

W *HEREAS* the Want of Roads, and the Distance between the Township of *Liverpool*, in *Queen's-County*, and the Townships of *Yarmouth*, *Barrington*, and *Argyle*, makes the Attendance of Persons resident in the said Townships, at the *Inferior Court of Common Pleas*, held at *Liverpool*, for the said County, not only very inconvenient, but greatly impedes the due Administration of Justice in the said Townships of *Yarmouth*, *Barrington*, and *Argyle*. For Remedy whereof,

Inferior Court to be held at Yarmouth, first Tuesday of April, last Tuesday of October.

I. *Be it Enacted*, by the Governor, Council and Assembly, That an *Inferior Court of Common Pleas* for the said County of *Queen's County*, shall and may be holden within the Township of *Yarmouth*, in the County aforesaid, on the First Tuesday of *April*, and on the last Tuesday of *October* in every Year.

Laws respecting Jurors, &c. to extend to said Court.

II. *And be it also Enacted*, That all and every the Laws of this Province, respecting the balloting, summoning and Attendance of Jurors, ordering and taking special Bail, the Service of Writs and Executions, or which relate to order and direct either the practical or judicial Proceedings of the Courts of Law in this Province, shall extend, and be construed to extend, to the said *Inferior Court of Common Pleas*, in the Township of *Yarmouth* as aforesaid.

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C A P. VI.

An Act for the ready Admission of such of his Majesty's Subjects in the Colonies on the Continent, who may be induced to take Refuge in this Province, from the Anarchy and Confusion there, and for securing the Peace, and preserving the Loyalty and Obedience of the Inhabitants of this Province.

W HEREAS there is at this Time a most daring and unnatural Rebellion, subsisting in the neighbouring Provinces against his sacred Majesty and his Government, and as many of his Majesty's Subjects of dutiful and loyal Deportment, are desirous of withdrawing themselves from such Confusion and unnatural Rebellion, and seeking an Asylum in this Province.

Preamble.

I. Be it Enacted, by the Governor, Council and Assembly, That every Person above the Age of Sixteen Years, who have, or shall hereafter come into any Part of this Province, from any Part of the Continent of North America, with an Intent to dwell or reside within this Province, or to carry on any Trade or Business, shall take the Oaths of Allegiance and Supremacy and Declaration required to be taken and subscribed by Act of Parliament.

Persons above 16 Years of Age who have come, or may come into this Province from any part of the Continent to take the Oaths of Allegiance, &c.

II. And be it Enacted, by the Authority aforesaid, That every Person taking the Oaths and subscribing the Declaration aforesaid, shall to all Intents and Purposes be esteemed and reputed to be an Inhabitant of this Province, and intitled to all the Privileges and Immunities thereof.

Persons taking the Oaths, &c. to be esteemed as Inhabitants.

III. And be it also Enacted, That the Governor, Lieutenant Governor or Commander in Chief for the Time being, or any one of his Majesty's Council, or any one of his Majesty's Justices of either Court, or any one of his Majesty's Justices of the Peace for any County, are hereby authorized and empowered to administer the said Oaths, to any Person coming into this Province, and they are hereby further required to certify into the Secretary's Office, the Names of the Persons so taking the Oaths, and signing the Declaration aforesaid, together with the Trade, Business, Employment or Occupation of such Person within Sixty Days after taking the same, there to remain on Record, for the Benefit of the Person so taking it.

Persons authorized to administer the said Oaths.

and to certify into the Secretary's Office, the Names of the Persons taking the said Oaths, with the Trade, Business, &c. of such Person, within 60 Days.

IV. And Whereas many evil designing Persons have, and may hereafter come into this Province with an Intent to corrupt the

Mind.

If any Person coming into the Province, from any of the Provinces now in Rebellion, shall not in 5 Days after his Arrival present himself before some one of the Magistrates hereby authorized to administer said Oath, lawful for any of his Majesty's Justices to summon & bring such Person before him and require his taking and subscribing Oaths, and upon Refusal to order Person refusing to find Security for good Behaviour, or to commit him to Goal on refusal of such Security. Persons holding traitorous Correspondence with Persons now associated in Arms against his Majesty's Government shall on conviction thereof suffer agreeable to the Laws of G. Britain.

Minds of his Majesty's liege Subjects, and to carry on the Designs of his Majesty's rebellious Subjects aforesaid, Be it Enacted, by the Authority aforesaid That if any Person coming from any of the Provinces now in Rebellion against his Majesty and Government, into this Province, and shall not within the Space of Five Days after his Arrival, present himself to some one of the Magistrates hereby lawfully authorized to Administer the said Oaths, and before him to take the same, and subscribe the Declaration aforesaid, it shall and may be lawful for any of his Majesty's Justices of the Peace to summon and bring such Person before him, and require his taking and subscribing the Oaths and Declaration aforesaid, and upon Refusal thereof, to order and direct such Person so refusing, to find two good and sufficient Sureties, for his good Behaviour during his Residence in the Province, and upon his Refusal, to commit such Person to any of his Majesty's Goals till he shall take and subscribe the said Oaths and Declaration or find Security as aforesaid.

V. *And be it also Enacted, That if any Person living and residing within this his Majesty's Province, shall at any Time hereafter hold any traitorous Correspondence with any Persons in the aforesaid Colonies, now associated in Arms against his Majesty's Government, either by Letter, Message, or in any other criminal and traitorous Manner, he or she being thereof convicted, agreeable to the Statutes and Laws of Great Britain, shall suffer such Pains and Penalties, as in such Cases is provided, against Persons traitorously corresponding with his Majesty's Enemies.*

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At the GENERAL-ASSEMBLY of the Province of *Nova-Scotia*, begun and holden at HALIFAX, on the Sixth Day of *June*, Anno Domini 1770, in the Tenth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great-Britain*, *France*, and *Ireland*, King, Defender of the Faith, &c. and there continued by several Prorogations until the Fifteenth Day of *June*, Anno Domini 1776, in the Sixteenth Year of His said Majesty's Reign, being the Fifth GENERAL-ASSEMBLY convened in the said Province.

C A P. I.

An Act in Addition to the several Acts, made by the *General Assembly* of this Province, to enable the several Townships within the same to maintain their Poor.

2d. Session, 3. Geo.
3. cap. 7.
7th, Geo. 3. cap. 3.
8. Geo. 3. cap. 5.
2d Session,
8. Geo. 3. cap. 1.
10. Geo. 3. cap. 2.
12 Geo. 3. cap. 6.

***** HEREAS the Inhabitants of the Township of Halifax, have neglected to meet at the Times by Law directed to vote Money for the Support of the Poor of said Township, which has made it necessary for the Justices at the General Sessions of the Peace to amerce the said Township, in such Sums as to them appeared requisited for the Purpose. And whereas Doubts have arisen as to the Number of Assessors to be appointed by the Justices for assessing the said Sums so amerced, or which it may be expedient hereafter to amerce, on any Township neglecting to meet and make Provision for their Poor as aforesaid.

Preamble.

I. Be it Enacted by the Lieutenant-Governor, Council and Assembly, That in all Cases where the Inhabitants of the Township of Halifax, or of any other Township in the Province, shall

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neglect

In all Cases where Justices shall amerce the Township for the Support of the poor,

Affessors to be appointed by them. the Assessment to be affixed in some public Place, three Days before the end of the Sessions. Appeal to be determined the same Sessions.

If Affessors neglect to make Assessment within Ten Days after Appointment, or if Collectors neglect their Duty, to pay a Fine of £5.

to be levied by Warrant from two Justices.

neglect to meet and vote such Sums as may be necessary to be raised for the Support of their Poor. The Justices at their *Special Sessions of the Peace*, shall and may amerce such Township in such Sum or Sums of Money, as they shall think requisite for that Purpose. And they shall also at such Sessions appoint Five Freeholders (three or more of which to be a quorum) to assess the Sums to be assessed on the Inhabitants, which Assessment so made shall be affixed in some public Place of such Township, at least three Days before the end of the same Sessions, that any of the Inhabitants so assessed, may, if they see cause, appeal therefrom, and that the Justices may determine thereon the same Sessions.

II. *And be it also Enacted*, That in case the Affessors appointed by the Justices as aforesaid shall neglect or refuse to meet and make the said assessment within Ten Days after their Appointment or in Case the Collector or Collectors appointed to collect the same neglect their Duty therein. He or they shall be subject to a Fine of Five Pounds for the Use of the Poor of such Township, which shall on Failure of payment be levied on Complaint of the Overseers of the Poor before two of his Majesty's Justices of the Peace, by Warrant of Distress and Sale of the Offenders Goods and Chattels, and others shall by the said Justices be appointed in their Stead.

C A P. II.

An Act in Addition to an Act, made in the Thirteenth Year of his present Majesty's Reign, entitled *An Act to empower the Province Treasurer to issue other Notes in exchange for such Notes as have been issued heretofore, in Virtue of the several Loan Acts made by the General Assembly of this Province, and are defaced and worn.*

13. Geo. 3. cap. 1.

Preamble.

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 ' HEREAS in and by an Act made in the Thirteenth Year of his present Majesty's Reign entitled, 'An Act to empower the Province Treasurer to issue other Notes in Exchange for such Notes as have been issued heretofore, in Virtue of the several Loan Acts made by the General Assembly of this Province, and are defaced and worn.' It is Enacted, that the Treasurer of the Province shall be empowered on Application made to him for that Purpose, to take up and receive all such Notes for Money borrowed

borrowed Form the And When on the several the Interest troublesome

I. Be it That from Treasurer now out of all such Notes such Sums of November

II And hereby receive Notes or V and to Da give Receipt on such Notes Bearer the

III. An Notes and Manner as ply with the Interest due to the Per

IV. An rants on the due thereon Warrant, standing.

V. And to the Tre shall be given directed by counterfign

borrowed as aforesaid, and in lieu thereof to give Receipts in a Form therein prescribed such Notes so received to be cancelled: *And Whereas the several out standing Notes and Warrants issued on the several Loan Acts, bear various Dates, and the calculating the Interest thereon to the different Periods, is found to be very troublesome and inconvenient.*

I. *Be it Enacted, by the Lieutenant Governor, Council and Assembly,* That from and after the publication of this Act, all Possessors of Treasurer's Notes and Warrants on the Treasury, bearing Interest, now out standing, shall, and they are hereby required to Exchange all such Notes and Warrants at the Treasury, for new Notes, in such Sums as the Possessors shall choose, to bear Date the first day of November, and the first day of *Ma*

Treasurer's Notes & Warrants on the Treasury bearing Interest to be exchanged for new Notes bearing Date First November and First May.

II *And be it also Enacted,* That the Treasurer shall, and he is hereby required, to issue such new Notes in Exchange for such Notes or Warrants as shall be brought to him for that Purpose, and to Date the same at the Periods afore-mentioned, and shall give Receipts or Certificates for all the Interest which shall be due on such Notes or Warrants so received, which shall entitle the Bearer thereof to the Payment of such Interest.

The Treasurer to issue new Notes in Exchange for all such Notes or Warrants as are brought to him, and give Receipts or Certificates for the Interest due thereon.

III. *And be it also further Enacted,* That all such Possessors of Notes and Warrants as shall not choose to exchange the same in Manner as herein directed, shall nevertheless be obliged to comply with the Directions prescribed by this Act, in the receiving the Interest due on such Notes or Warrants, which shall be calculated to the Periods herein limited, and be paid accordingly.

Such Possessors of Notes, &c. as shall not choose to exchange them, shall comply with the Directions prescribed in receiving Interest.

IV. *And be it Enacted,* That all Possessors of Notes and Warrants on the Treasury bearing Interest, shall receive the Interest due thereon, on their producing to the Treasurer such Note or Warrant, any Law, Usage or Custom to the contrary notwithstanding.

All Possessors of Notes, &c. shall receive the Interest on producing the Notes, &c.

V. *And be it also Enacted,* That all Notes or Warrants brought to the Treasury as aforesaid, and for which new Notes or Receipts shall be given in Pursuance of this Act, shall be cancelled as is directed by the afore-recited Act, and the new Notes shall be countersigned in Manner therein-mentioned.

Notes brought to the Treasury for which new Notes are given to be cancelled as directed by *AN ACT* 3. cap. 1. and the new Notes countersign'd

C A P. III.

An ACT for taking, examining, and stating the public Accounts of this Province.

All Accounts of the Receipts of Monies arising from any Duty, &c.

and the Accounts of the issuing of all Money which shall come into the Treasury to be laid before the General-Assembly for Examination, &c. and such Approbation & Allowances

to be a Discharge and Bar against any Action.

E it Enacted, by the Lieutenant-Governor, Council and Assembly, That all Accounts of the Receipt of any Monies arising from any Duty or Taxes granted and raised, and that hereafter shall be granted and raised by the General-Assembly, for and towards the Support of Government or otherwise, and the Accounts of the issuing and Disposal of all such Monies as have, or shall come into the Treasury by any Ways or Means whatsoever shall be laid before the General-Assembly at the several Sessions held from Time to Time, for their Examination, Approbation and Allowance, in such Manner as to the General-Assembly shall be judged proper; and all such Approbations and Allowances of the General-Assembly heretofore, or that hereafter shall be passed, shall be to the several Collectors or Receivers of the Duties, Treasurers, and other Persons concerned, a full and final Discharge, and be a Bar against any Action, which may be brought for any Sum or Sums of Money against any of the Persons aforesaid.

Proviso.

II. *Provided, That all Monies arising by the Operations of any Revenue Act or Acts of this Province, shall be accounted for unto his Majesty in the Kingdom of Great-Britain, and to the Commissioners of his Majesty's Treasury, or High Treasurer for the Time being, and audited by the Auditor General of his Majesty's Plantations or his Deputy.*

III. *And whereas great Inconveniencies have arisen by Persons having Demands or pretend to have demand on this Government, and who do not bring in their Accounts for along Time after the same became due, or was said to become due, and that thro' Length of Time, or the Death or Absence of Persons, the Possibility of detecting Frauds is prevented, by Means of which the Province has been, and may be greatly injured, For Remedy whereof;*

Persons having Demands against Government before 1st June, 1776, or hereafter have any Demands, to bring in the same before the next Session of the General-Assembly, or

Be it Enacted, That all Persons having Claims or Demands against this Government, either for Work done, Goods supplied, or Services of any Kind, which may have become due, or owing to them before the First Day of June Instant, or who may hereafter have any Demands as aforesaid, shall bring in the same before the next Session of the General-Assembly or within the First Week of the said Session, to be examined and audited

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dited by a Committee of Council, and of the *House of Assembly*, and in like Manner all Accounts of such Demands, shall from Time to Time be brought in either before, or within the first Week of each Session of the *General-Assembly* thereafter.

IV. *And be it also Enacted*, That no such Accounts shall be admitted, or paid by the Treasurer of the Province, where the same shall not have been brought in, within the Times limited by this Act.

with in first Week of said Session to be examined, &c. by a Committee of Council & House of Assembly.

and so from Time to Time.

No Accounts to be admitted or paid by the Treasurer if not brought in within the Times limited by this Act.

C A P. IV.

An ACT for altering the Times appointed for holding the Supreme Court.

XXXX *HEREAS* the Times appointed for holding the Supreme Court, by an Act made in the Fifteenth Year of his present Majesty's Reign, intituled, An Act in Addition to, and Amendment of an Act made in the eight Year or his present Majesty's Reign, intituled, an Act for establishing the Times of holding the Supreme Court, are found to be inconvenient;

Preamble.

I. *Be it Enacted, by the Lieutenant Governor, Council and Assembly*, That the said Supreme Court shall be held at *Halifax*, on the last Tuesday of the Month of *January*, the first Tuesday of the Month of *April*, the second Tuesday of the Month of *July*, and the second Tuesday of the Month of *October*, at *Horton*, in *King's County* on the second Tuesday of the Month of *May*, and fourth Tuesday of *September*, at *Annapolis* in the County of *Annapolis*, on the third Tuesday of the Month of *May*, and the third Tuesday of the Month of *September*, at *Cumberland* in the County of *Cumberland*, on the first Tuesday of the Month of *June*, and the first Tuesday of the Month of *September*.

Times for holding the Supreme Court in *Halifax*, *King's County*, *Annapolis Royal*, and *Cumberland*.

II. *And be it Enacted*, That all Writts and other Procefs already issued returnable to the said Court, shall be returned, and all Matters depending at the said Court, in either of the said Counties shall be proceeded on, at the Days respectively appointed by this Act for holding the same, and all Officers and other Persons concerned are required to confirm themselves accordingly.

All Writts, &c. to be returned, and all matters depending at said Court, to be proceeded on at the Days appointed by this Act.

C A P. V.

C A P. V.

16. Geo. 3. cap. 1.

An ACT to repeal an Act of the *General Assembly* intituled “ an Act in Addition to the several Acts of this Province, made for regulating the Militia, and more particularly, an Act made in the second Year of His present Majesty’s Reign intituled, an Act for the better regulating the Militia on actual Service in Time of War.”

preamble.

HEREAS by the Arrival of a considerable Body of His Majesty’s Troops in this Province, for the better Defence thereof, the Act passed in the last Session of the General Assembly, in Addition to the several Acts made for regulating the Militia, is become unnecessary, and where-as many Difficulties and inconveniencies attend the Execution of said Act.

Act 16 Geo. 3 cap.
1. relating to the
Militia repealed,

I. Be it Enacted, by the Lieutenant Governor, Council and Assembly, That an Act made last Session of the General Assembly, intituled, an Act in Addition “ to the several Acts of this Province made for regulating the Militia, and more particularly, an Act made in the second year of His present Majesty’s Reign intituled, “ an Act for the better Regulating the Militia on Actual service in Time of War.” And every Clause, Matter and Thing therein contained, be and the same is hereby repealed.

This Act not to be
of force till His
Majesty’s pleasure
be known.

II. Provided always, That nothing in this Act contained, shall be of any Force or Effect, until His Majesty’s Pleasure therein, shall be known.

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